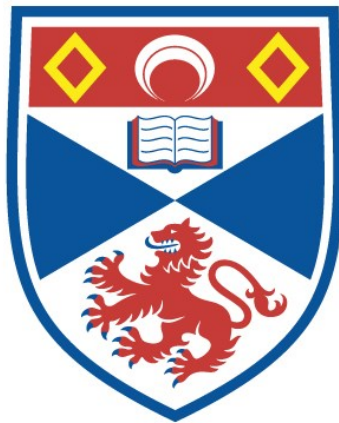


SCOTTISH MONASTICISM : ITS RELATION WITH THE CROWN AND THE CHURCH TO THE YEAR 1378

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**A Thesis Submitted for the Degree of PhD
at the
University of St Andrews**



1928

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"Scottish Monasticism: Its Relations with the
Crown and the Church to the year 1378."

being a Thesis presented by

Rev. David Edward Easson, M.A., B.D.

to the University of St. Andrews

in application for the Degree of

Ph. D.

CERTIFICATE.

I certify that Rev. D. G. Haason, B.D. has spent
nine terms at Research Work in *Ecclesiastical History*,
that he has fulfilled the conditions of Ordinance No. 16
(St. Andrews) and that he is qualified to submit the accom-
panying Thesis in Application for the Degree of Ph. D.

Hist. Zeel. Prof.



DECLARATION.

I hereby declare that the following Thesis is based on the results of research carried out by me, that the Thesis is my own composition, and that it has not previously been presented for a Higher Degree.

The Research was carried out in the Department of Ecclesiastical History, in the University of St. Andrews, under the direction of Professor Baxter, and has involved the study of documents bearing on the Ecclesiastical History of Scotland until the year 1378.

CAREER.

I matriculated in the University of St. Andrews in October, 1914 and followed courses leading to Degrees in Arts and Divinity during the following periods:- Arts (1914-1920), Divinity (1921-1924).

I obtained the following Degrees on the dates mentioned:-

Master of Arts (Ord. 1918, 2nd Cl. Hons. English, 1919; 2nd. Cl. Hons. Philosophy, 1920), Bachelor of Divinity, 1924.

In November, 1925, I commenced the research which is now being submitted as a Ph. D. Thesis.

INTRODUCTION.

In the history of the Church in Scotland there are two turning-points of chief importance, the introduction of the institutions, organisation and order of the Roman Catholic Church with the support of the Crown in the eleventh century, by which the Celtic Church and its institutions were displaced, and, finally, suppressed; and the Reformation of the sixteenth century, when the Roman organisation in turn was abolished and Protestantism recognized as the form of Church government and order approved by the State. In both these culminating periods the monks played a part; in one, as the emissaries of the intruded Church, marked for favour, in the latter as its discredited representatives, marked for suppression.

It was comparatively late in the Christian era ere Monasticism in the form characteristic of the Western or Roman Church entered Scotland. St. Benedict of Nursia, in whom the monastic organisation of the Western Church found its originating spirit, died in 543. In 597 the Benedictines had arrived in England. Not until the reign of Queen Margaret (ante 1093) was a Benedictine house established in Scotland, at Dunfermline. Thus the monastic movement by the time it had spread into Scotland, had had a long development, in which it had departed in some important respects from the ideals of St. Benedict.

In the formulation of a rule, founded on obedience to and within the monastic community, on celibacy, work, the cultivation of the spiritual life, and abstinence from the holding of private property, Benedict enunciated the principles which in one form or another were to direct the life of the regular clergy. The monastic life was an end in itself. Monasticism arose as an exclusive movement, producing an organisation which became "A Church within a Church", so that the Western Church, under the headship of the Pope, governed locally by the delegated authority of its diocesan bishops, and ministering to the laity by its priesthood, included within it, in allegiance to the Papacy, but sharply distinguished from the secular clergy, the great and separate monastic organisation, living a life apart, divided latterly into orders, having as its unit the monastery, over which the abbot or prior presided. But it was an ominous sign for the future that already in the time of St. Benedict, Gregory I found in the monastic movement an ally of the Papacy, and an instrument for devoted activity on behalf of the Church, or more precisely, of the ideals of the Church as formulated by the Vatican.

Monasticism was scarce set afoot ere it gained privileges. Moreover, the regulars claimed a spiritual superiority over the secular Church, inasmuch as their profession of a life according to a Rule, enabled them to cultivate the spiritual life par excellence.

In theory, Monasticism ought thus to have been apart from the political sphere, since its concerns were primarily spiritual; above and outwith the secular Church, in pursuing an independent, distinctive, communal and conserved spiritual life of its own. In practice the Monastic movement had come into contact both with the State and the Secular Church ere it reached Scotland. This was indeed inevitable. The monasteries occupied land within a realm - their position towards the State could not be left entirely vague. With the growth of Feudalism, which depended on the centralized power of the sovereign and the holding of land over which he had the right of disposal and for which he could impose obligations upon the tenant, the monasteries were brought into relations with the Crown. Moreover, in the imperfectly ordered society of the sixth century onwards, the religious depended for protection on the strong arm of lay authority; on the beneficence of kings and nobles for revenue; on their power also for the holding of it in security. The monks came into Scotland, not only as emissaries of the Pope, or the advance-guard of the Church of Rome but as protégés of the sovereign.

Again, it was inevitable from general considerations that the regulars should come into contact with the secular Church. Each monastery was situated within the territory of a diocese. As early as the Council of Chalcedon (431) it was enjoined that all monks ~~in the~~ should submit to the diocesan bishop, and bishops were ordered to keep watch over the conduct of monks in their dioceses. Organized monasticism had to define its relations with the chief authority of the secular Church, who also had powers of jurisdiction over the religious. Other developments were to follow in their interaction with the clergy of cathedrals and parishes. In the eighth century the movement towards bringing cathedral canons under a monastic rule, which led to the formation of such orders as the Augustinians, marked a definite incursion of monastic principles into a sphere of secular activity.

MONASTICISM AND THE CROWN.

The movement of Scottish history from the reign of Kenneth McAlpin was towards national consolidation and unity. With Kenneth, in 844, Picts and Scots came under the rule of one king. In 1018, the Battle of Carham, where Malcolm IV defeated the Northumbrians, marked a further step towards national unity, for the king of Scotland was not able to extend his kingdom to the Tweed: in this year also Strathclyde became an appanage of the Scottish Crown. The process of consolidation was carried on by Malcolm Canmore (1057-1093), whose attempts were not entirely successful. But his marriage with the Saxon princess, Margaret, was more effectual than his warfare in promoting the ultimate consolidation of Scotland: for it was the means of enlisting the aid of the Church towards that end.

The disunion of its constituent peoples and especially the constant strife between the Northumbrians and the Picto-Scottish kingdom was probably the reason of the late penetration of Roman influence into Scotland. At the Synod of Whitby in 664, Roman Christianity had won a decisive victory over the Celtic Church, but the result in Scotland was quite indefinite. Roman influences may have caused the rise of so-called "Bishoprics" e.g. the bishopric of Fortrenn, held by Faalthal in 865, and especially the emergence of St. Andrews as an episcopal see before the time of David I. But it was not till the time of Margaret that the arrival of Benedictine monks in Scotland indicated the coming of a new epoch in Scottish church history. The Culdees, who represented a type of Celtic monachism, had been the recipients of royal generosity, for instance, from Macbeth. The royal favour was now definitely transferred to the emissaries of Rome. Margaret gave the church of Dunfermline to the Benedictines: and the five points on which she reformed the prevailing usage of the Celtic church were small reforms compared with the introduction of the Benedictines.

Once the age-long struggle with Northumbria was at an end, Scotland was subject to the incursion of English influence. Queen Margaret gave an incentive to this development. But when we speak of Scotland being Anglicized in this period, it has to be borne in mind that England had itself been subject to an

important change in its organisation as a state.

The Norman invaders had established within it the

Feudal System. Thus, latent in the Anglicising of Scotland,

was, on the political side, its feudalization; on the ecclesiastical side, its Romanization. In the reigns of Edgar and Alexander I, the penetration of Scotland by English institutions was on the increase; Edgar gave Goldingham to the monks of Durham.

The policy of Alexander is a curious compound of attempts to assert the political and ecclesiastical independence of Scotland, and the encouragement of English ecclesiastics and ecclesiastical customs. This is well illustrated in his dealings with Turgot and Eadmer, introduced as English prelates to the see of St. Andrews, but alienating themselves from the royal favour by their insistence on the primacy of Canterbury. In these reigns, although Scone and Goldingham were established by royal favour, the settlement of monks in Scotland was still sporadic. It was with David I, who succeeded Alexander in 1124, that the policy of preceding monarchs was carried out to its conclusion, definitely establishing Feudalism in Scotland, bringing the Scottish Church finally into line with Rome.

The reign of David, as Hume Brown remarks, began the second period of consolidation in Scotland, no mere haphazard unification, dependent on the fortunes of war, but uniting the nation by definite innovations and reforms in Church and State, by the civilizing forces of law and religion. David, educated in English ideals, was to bring Scotland not only into line with its Southern neighbour, but into line with the states of Western Europe and into close contact with Rome. "English institutions, customs and ideals gained root in every department of social, civic and economic life; Sheriff's law took the place of precarious methods of dispensing justice; Mormaers and toisechs gave way to counts and barons; written charters were gradually substituted for custom as guarantees of ownership; burghs and towns were born; trade and agriculture were pursued under new conditions. With a rapidity to which history supplies few parallels the irregularities of tribal life gave way to the feudal civilization of the Normans."¹ The sporadic growth of the monasteries now gave place to the widespread planting of religious houses; diocesan episcopacy, in place of one bishopric of the Scots, was established; the manorial system of landholding had its ecclesiastical counterpart in the rise of parishes. Scotland politically became feudalized; ecclesiastically, Romanized. The monastic

1. MacEwen, History of the Church in Scotland, I, p.163.

settlements were the instruments and the signs of Romanization.

The sudden increase of regulars in Scotland in this reign was due primarily to the royal favour; but it presented a new feature in the life of Scotland. We have noted the inherent political significance of the monasteries. We may now specify certain particular respects in which they could not fail to be politically involved in the Scottish kingdom.

(1) The "regulars" were "international". They formed a "State within a State", members of an organisation which was not bounded by any national boundaries or obligations, but had, as its centre and Head, the Pope. This had been the outcome of developments of the monastic movement within the Holy Roman Empire, when the bishops became the supporters of the Crown over against the monks who were the cosmopolitan agents of the Papacy. The primary objects of the regular clergy were to foster their order, their monastery, and their principles of common property, obedience and celibacy.

(2) The monks apart from their internationalism and their dependence on the Pope as the head of the monastic organisation, were the agents of the Papacy, which itself claimed political powers. They could thus be employed to further the political designs of the Pope within the nation in whose bounds they were settled.

(3) The monastic houses were landowners in a feudalized Scotland. The Feudal System was designed to centralize authority in the hands of the Crown. The basis of landowning was allegiance, expressed in the form of obligations to furnish a quota of the military power necessary for the defence of the State. Their relation to the sovereign power within the State raised a political question.

The problems involved in their political potentialities in Scotland may be investigated under two heads-

(1) How far was Monasticism a political instrument at the disposal of the Crown ?

(2) How far did the regulars make use of the Crown in their own interests?

Chapter I. The King and the Church.

The question of the relations of Crown and Church is one of the recurring problems of history. Within its scope, is included the special case of the relations of the Crown and the institution of Monasticism.

What was the attitude of the Scottish kings towards the Church in the period up till 1378? The general answer is that towards it, as in other Western states of the period, they acted as patron and protector, as its patron not only in the disposal of benefices, notably bishoprics, but in assigning revenues, privileges and exemptions to the Church both secular and regular, as its protector in safeguarding their enjoyment of these. Thus, for instance, a tenth or even an eighth of fines and escheats¹ of the Justiciary and Sheriff courts was assigned to the Church. The Bishops of Aberdeen, Moray, Ross and Caithness received the tenth of these in their respective dioceses; so also the tenth of escheats and fines in the sheriffdom of Kincardine was given to the Bishop of Brechin; in the sheriffdom of Forfar to the Prior of Restennet. In Fife, an eighth of fines and escheats was the perquisite of the Abbot of Dunfermline. Apart from grants of money, the royal patronage bestowed lands and parish churches, on bishops and monks.

The rôle of the Crown as protector of the rights of the Church is well illustrated by the statute ascribed to King William (1209), "De libertate ecclesie".²

"Statuit Rex Willelmus apud Sconam de communi consilio et deliberatione prelatorum comitum et baronum ac libere tenencium quod ecclesia sancta Scoticana et sancta religio et universus clerus in suis iuribus libertatibus ac privilegiis omnibus manuteneatur in quiete pace et semper sub protectione regia."

So in particular instances, the promise of protection by the Crown is a common feature of charters of donation. The monasteries are taken under the "King's Peace." David I, granting privileges to the canons of St. Andrews, declares:

"Volo et praecipio ut praedicti canonici et

1. Excheq. Rolls, passim; I, Introd. p. lviii.

2. Act. Parl. Scot. I, p.382.

homines sint quieti et liberi de tolneo in burgis meis.....
et habeant licentiam emendi cujusmodi voluerint bladum
et farinam in mea firma pace ad suos proprios usus et nullus super
meam defensionem eos inde disturbet."¹

A similar remission of toll, granted to the canons of May,
has the familiar sanction:

"Defendo ne ullus aut rebus eorum super meum forisfactum
forisfaciat."²

Charters of William I indicate a deliberate interest in the
protection of the Church. Thus an undated charter in regard to
the privileges of Holyrood declares:

"Ex officio suscepta a deo regni administrationis incumbit
nobis (non solum) ecclesias et ecclesiasticas personas diligere
et honorare, verum etiam elemosinas et beneficia ad eorum
sustentacionem impendere et ea que ab antecessoribus nobis et ab
aliis dei fidelibus collata sint tueri concedere et confirmare."³

The Crown, above all, safeguards the payment of tithe.

"Willelmus rex omnibus vicecomitibus et ministris
tocius terre sue in quorum potestatibus canonici Deo et Sancto
Andree apostolo servientes ecclesias tenent salutem. Mando
vobis et firmiter precipio quatinus predictis canonicis decimas
suas et omnes rectitudines catholice ecclesie pertinentes de
parochianis suis habere faciatis et parochias suas ita integras
sicut in tempore Malcolmi regis fratris mei plenius et melius
fuerunt. Quod sic noluerunt precipio vobis quod cogatio illos facere
et plenarium forisfactum ab eis accipiatis sicut a rege David
avo meo statutum est in Scotia."⁴

But in particular, the patronage of the Crown took the
form of grants of lands and their revenues to the Church.
These donations took the characteristic form of grants in frankalmoigne,
or, in the expression of the charters, "in liberam, puram, et
perpetuam elemosynam". They were made as a pious duty for religious
ends, usually for the salvation of the soul of the donor or his
kinsmen. Both monasteries and bishoprics were the recipients of these
grants, which in the time especially of David I, were made

1. Reg. Prior. St. And., quoted Lawrie, E.S.C., p. 132.

2. Cart. Prior. de May, No. 6.

3. Liber Cart. S. Crucis, p. 22; cf. in similar terms, Alexander II to
Jedburgh (1229). (Reg. Mag. Sig. I. p. 473.)

4. Act. Parl. Scot. I. p. 80. This was support in making an unpopular
demand. Cf. the case of the murder of the Bishop of Caithness.

with great profusion.¹ In 1126, King David gives a charter to the monastery of Dunfermline -

"**Sciatis** me dedisse in elemosinam ecclesiae Sancte Trinitatis de Dunfermlyn unum toftum in meo burgo de Perth quietum de omnibus rebus."²

These grants were feudal. But the holding of land normally implied feudal obligations, and notably the obligation of military service, in the provision of a given number of fully equipped men for the king's host. A grant in elemosinam, however, conferred notable privileges on its recipients. Since the aim of the grant was to further the interests of religion, and since it was made on condition of religious services, and was indeed an alms to the Church, it was free from secular services. Dowden favours the opinion that "tenants in frankalmoigne were freed from all secular exactions and service, except, probably, what services arose under the trinoda necessitas, or the obligation to join a general levy to resist foreign invasion, to assist in the building of the King's fortresses, and to assist in the construction and repair of the king's highways and bridges."³

Thus the Church came into the Feudal System, as a privileged institution. But the special position of Monasticism within the Church is shown by the way in which the king's patronage was applied to it as compared with the Bishoprics. Towards the monasteries, the patronage of favour is predominant. The royal supremacy is but gently asserted. In the case of the bishoprics, the patronage of the Crown is mainly the expression of prerogative. The royal supremacy is definitely and even ruthlessly asserted.

(a.) The favour shown to the regular clergy is indicated by the constant appeal of the monks to obtain confirmation of their privileges and possessions by successive kings. The assistance of the Crown was sought to obtain special boons, as when the canons of Scone obtained in 1374, through the intercession of Robert II, a long-desired exchange of the parishes of Carrington and Blair.⁴ The regulars obtained such a special privilege as the taking of wood from the king's forests for their buildings and other uses.⁵

1. The extent of grants of moneys may be seen by the number of entries in the Exchequer Rolls of items paid to the Church "ex elemosina regis."

2. Reg. de Dunferm. No.25, quoted Lawrie, E.S.C. p.57.

3. Med. Church in Scotland, p.156. In 1329 Robert I craves permission to obtain stone in the quarries of the canons of Scone for the repairs of the bridges of Perth and Earn and declares this will cause no prejudice to the monastery.

(Lib. de Scon, p.103).

4. Lib. de Scon, p.142.

5. e.g. Reg. de Aberbrothoc, I. pp.219, 221.

They were, again, protected against injury or loss by the aid of the Crown. The monastery of Arbroath obtained the privilege in 1323, from Robert I, that the king's Justiciars and other law officers should assist them to reclaim debts, and that the king's bailie should take proceedings against those who injure the monastery.¹ But the favour of the Crown is shown most clearly by the degree of exemption obtained by the Regulars from feudal obligations. Thus, David I grants to Melrose in his confirmation charter (1143-44)

"Totam terram de Melros et totam terram de Eldune et totam terram de Dernewic.... in bosco et plano et pratis et aquis in pasturis et moris in viis et semitis et in omnibus aliis rebus liberas et quietas et solutas ab omni terreno servitio et exactione seculari perpetuo tenore possidere...."²

The exemption of the monastery from feudal services is thus absolute. Again, a charter to Dunfermline by the same king, about the year 1130, and repeated by Malcolm IV expressly exempts the monastery from the trinoda necessitas.

"Ut homines sui sint liberi ab omni operatione castellorum et pontium et omnium aliorum operum."³

In another respect, the favour of the Crown was shown towards the regulars, viz. in the election of the abbot. The principle asserted very frequently in papal bulls, that the election of the abbot is free, i.e., from secular interference -

"Sancimus ne episcopus vel aliqua secularis persona.... regularem et canonicam electionem abbatis vestri unquam impediant,"⁴

is respected by the Scottish Crown in a marked degree. William the Lion allows the canons of Scone to choose one of their number as Abbot "assensu et consilio meo."⁵ This was after 1165. But in the confirmation charter of Arbroath (1211-1214) he grants without reserve, "liberam electionem abbatibus." There are no more than hints of royal interference in elections, except in the somewhat vague statement of the

Chronicler of 1270, who declares that the Abbot of Scone was elected "plus domini regis timore quam amore."⁶ David II's application to Urban V for confirmation of the presentation of

1. Reg. de Aberbrothoc, I, p.222.

2. Lawrie, E.S.C. p.107.

3. Reg. de Dunfermelyn, p.17.

4. Carte Abbacie de Kinlos, No. I,

5. Lib de Scon, p.22.

6. Extracta e Variis Chronicis, p.110.

Patrick de Infirmierio to the priory of Fyvie is an inconspicuous instance of the promotion of a royal nominee.¹ But the royal will was not exercised as a coercive or permissive force in abbatial elections; and the question of the bestowal or use of temporalities in a vacancy could not arise where the property was held not by an individual but by a corporation. There is, however, evidence that an oath of fealty was exacted from heads of houses. Robert I, between 1307 and 1324, in making over the Earldom of Moray to Thomas Randolph adds the saving clause -

"Salvis nostris et heredibus nostris fidelitatem episcoporum abbatum priorum et aliorum prelatorum ecclesie Moraviensis et advocaciones seu jure patronatus ecclesiarum earundem et eorum statu in omnibus quem habuerunt tempore Regis Alexandri."²

But the attitude of the Scottish Crown is in marked contrast to that of Edward I, who, as Overlord of Scotland, gave Kelso license to elect an abbot in 1299,³ and the royal assent to an election at Jedburgh in 1296.⁴ He likewise insisted on a declaration of fealty as a preliminary to the restitution of the temporalities of the abbacy of Kelso in 1299.

"Cepimus fidelitatem prefati electi et temporalia praedictae abbathiae restituimus eidem de gratia nostra speciali."⁵

No such stringency appears in the dealings of the Scottish Crown with the religious, who in this respect are strongly contrasted with the Episcopate.

(b.) In the attitude of the Crown to the Episcopate, the patronage of the Crown was chiefly the patronage of prerogative. The bishops were doubtless the recipients of royal bounty: their dioceses were founded by the royal initiative. But in the eyes of the king, the bishoprics were fiefs of the Crown. They held lands "In puram et liberam elemosynam". But over and above this, they were required to swear fealty to the Crown, as the holders of sees at the royal disposal. The institution of a bishop to his see was a feudal investiture.

1. Cal. Pet. i. p.476.

2. Reg. Episc. Morav. p.344.

3. Documents Illust. of Hist. of Scotland, II, p.392.

4. Ibid. p.106.

5. Ibid. p.392.

6. Dowden cites the instance of the prelates swearing fealty to Robert II in 1371 along with the earls and barons. (Mediaeval Church in Scotland, p.192.)

Their dependent position, however, is made clear, by the attitude of the Crown to episcopal elections and to the temporalities of episcopal sees. The contrast with the position of the religious may be well illustrated by the attitude of William the Lion to the bishops. This king, who at most asserted a mild authority towards abbatial elections, exhibited the royal supremacy in the election of bishops. Giraldus Cambrensis declares of him:

"Per totam enim terrae suae totius amplitudinem, in cathedralibus ecclesiis cunctis, nullas omnino nisi ad nutum ipsius, more tyrannico, fieri permisit electiones, enormes quidem Normannicae tyrannidis per Angliam abusiones, nimis in hoc expresse sequens"¹

The king's assent to the election of a bishop was more than a formality. In 1174, Jocelin was elected to the diocese of Glasgow "a clero, a populo exigente et rege ipso assentiente."² Later, in 1253, the see of St. Andrews was vacant by the death of David de Bernham.

"Canonici vero clam ignorante archidiacono, cujus erat interesse, magistrum Robert de Stutevil elegerunt..... Rex autem ac sui consiliarii erga eosdem electores vehementer exasperati quod preces domini regis audire noluerunt, missis solemnibus nunciis^{una} cum dicto archidiacono ad curiam Romanam causam destinavit."³

In 1271 William Wishart "timore regis ad Sanctum Andream postulatus est."⁴ His election took place "petito...domini regis assensu et optentu."⁵

More especially, the feudal position of the bishoprics is shown by the attitude of the Crown towards their temporalities, which were assumed to be at the Crown's disposal and to revert to the Crown when the see was vacant. Only perhaps in the period of the overlordship of Edward I of England was there a question of restoring the Temporalities of monasteries. Whereas, when the Scottish Crown before 1378 was strong enough to make the venture, and had no special reason for cultivating the bishops, the vexed question of the king's right to give or withhold the temporalities of sees arose.

In 1254, Pope Alexander IV. is found writing to Gamelin, Bishop of St. Andrews, "We by these presents forbid..... the illustrious king of Scotland..... to seize the property of the said church (of St. Andrews).." "⁶

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1. Quoted, Robertson, Statuta, I. Pref. p. xxxiv, footnote.
 2. Chron. de Mailros, quoted Dowden, Med. Church, p. 20
 3. Chron. de Lanercost p. 58
 4. Extracta e Var. Chron. p. 110.
 5. Reg. Episc. Morav. p. 338.
 6. Lyon, Hist. of St. Andrews, II. p. 331.

Gamelin, by the Pope's direction in 1257, is to be put in possession of the temporalities of his see.¹ In 1259 the Pope addresses to the Bishop of St. Andrews an inhibition forbidding the king of Scotland or any other on the death of the bishop to seize the moveable goods of the said church "*cum hoc ipsi non habeant de consuetudine vel a iure.*"² Again in 1260, the Pope refused to annul the appointment of John de Cheam, to the see of Glasgow, but allowed the king to keep its temporalities until the Bishop took the oath of fealty;³ and in 1282, the king, it is indicated, could have the moveable goods of sees on the death of their bishops if such was the custom.⁴ It is significant that in 1299 the Pope requested the Guardians of the realm of Scotland to restore to the bishop-elect of Moray the goods of his see appropriated when the see was vacant.⁵ Lastly, the question arose in the reign of David II, who, although he renounced in 1372 the claim of the Crown to the estates of deceased bishops, declared in 1379-71 -

"*Terris tamen redditibus dominiis et serviciis quibuscunque ipsorum Episcopatum cum pertinenciis, necnon juribus patronatum ecclesiarum que ad Regaliam nostram pertinere consueverant et adhuc pertinent sede vacante.... juri Regio voluntatique et dispositioni nostri..... in omnibus et per omnia reservatis.*"⁶

Thus the attitude of the Crown to the monasteries and to the bishoprics was not determined merely by the fact that a monastery was a corporation which was continuous, a bishopric an office whose successive holders held its emoluments as individuals. Behind the contrast in the attitude of the Crown was a more or less stable conception of patronage, with a decided difference in its exercise. This difference was determined by one thing chiefly - the policy of the Crown in the special political circumstances of Scotland.

1. C.P.R., I. p.350.

2. C.P.R., I. p.368; Robertson, Statuta, I. Pref. p.c.

3. Robertson, loc. cit. p.lxxiv.

4. Act. Parl. Scot. I. App. to Pref. p.2.

5. Theiner, Vet. Mon. Hib. et Scot. p.167.

6. Reg. Mag. Sig. I. p.130.

Chapter II.

In the relations of the Crown and the monasteries, there is a third factor of great importance - the Pope.

The Scottish kings in their contact with "Ecclesia Scoticana," were dealing with a religious institution which had a local organisation within the borders of their realm, but was at the same time part of the wider organisation of the Roman Church, owning the Headship and authority of the Vatican. In the early period of its Romanization, diocesan episcopacy was instituted; but there was no Scottish metropolitan. Hence arose the protracted struggle against the claims of the Archbishop of York to exercise metropolitan authority over Scotland, a claim resented by Scottish kings, even by those of Anglicising tendencies, and against which they were ready to defy the Pope. David I abetted the Bishop of Glasgow's refusal to submit to York, even in the face of the admonition of Pope Innocent II to that Bishop. For in the eyes of the Scottish kings, the independence of the Scottish nation was bound up with the independence of the Scottish Church. Scotland was neither ecclesiastically nor politically part of England. Not only were the encroachments of an English archbishop to be resisted: the Pope, in so far as he supported a menace to Scottish independence was to be defied. The Battle of the Standard, was fought by so munificent a patron of the Church as David I, "against the archbishop whom successive popes had declared to be the metropolitan of Scotland". 1

In the year 1180, the controversy over the spiritual and political independence of Scotland came to a head. It arose on this occasion from the opposition of William the Lion to the election of John as Bishop of St. Andrews, the king favouring his own chaplain, Hugh. Successive popes were parties in this protracted wrangle, and both Alexander III and Clement III sought in turn the aid of the King of England to compel the Scottish king to bend to the wishes of the Vatican. In 1180, the Papal legate, Alexis, was sent to Scotland and was designated along with the Archbishop of York arbiter in the quarrel over the St. Andrews see. The resistance of William was obdurate. Alexander III ordered the Scottish monarch to accept John on pain of excommunication, a threat carried into effect, on the king's refusal. On the other hand, Lucius III used more conciliatory measures. Scotland was freed from the interdict and the excommunication of the king removed.

1. McEwen, History of the Church in Scotland, I. p.184.

Finally, Clement III, after a show of compulsory action, conceded to the Scottish Church, a measure of ecclesiastical independence, which ended the controversy in regard to English claims over Scotland. By the Bull "Cum Universi" of 1188, the Scottish Church was made immediately (nullo mediante) subject to Rome; further, it was enacted that -

"It shall not be lawful for any one but the Roman pontiff or by a legate sent "ab ipsius latere" to interdict the kingdom of Scotland or issue against it a sentence of excommunication.... Moreover, no one who does not belong to the said kingdom of Scotland shall exercise the office of legate, unless it shall be some one whom the Apostolic See shall specially send "de suo corpore". And we forbid that the controversies which lately arose in that kingdom concerning its possessions be carried to any other foreign court but our own. If any one decree to the contrary let no damage arise to you or your kingdom therefrom..."¹

This Bull which rebuts the claims of York, even with legatine authority, and the interference of the English Crown, was confirmed by Celestine III (1192), Innocent III (1200), and Honorius III (1218). Innocent IV added the provision in 1245 -

"Quas si forsan ab eadem sede extra idem regnum ex legitima causa committi contigeret, in civitate ac diocesi Eboracensi minime committantur, sed committantur dumtaxat in Karleolensi vel Dunelmensi civitatibus ac diocesibus quae vestris partibus sunt vicinae...."²

Thus the Scottish Crown gained a victory of much political significance, in obtaining papal authority for Scotland's ecclesiastical independence of England, a victory mitigated, however, by one thing - that in spite of concessions to national sentiment in the matter of legates, papal claims to authority in the kingdom of Scotland were undiminished. Even the concession in 1225 of a Provincial Council and a Conservator were of dual import - it was a concession of a form of ecclesiastical autonomy, but it linked Scotland more definitely to the Papacy. This is manifest in the Bull of Honorius:

"Certain of you lately brought to our ears the knowledge that since ye had not an archbishop by whose authority ye might be able to hold a provincial council, it results that in the kingdom of Scotland, which is so remote from the Apostolic See, the Statutes of the General Council (the 4th Lateran, 1215) are disregarded

1. Lyon, Hist. of St. And. II, pp.324-325.

2. Quoted, Makower, Constit. Hist. of Church of England, p.107, footnote.

and very many irregularities committed which remain unpunished."¹ It is significant that "the canonical rules" were to be read over and recorded "at the Provincial Council, especially the rules decreed by that same General Council". The Fourth Lateran Council was concerned with the stabilization of the Church by reformation of abuses, and by the promotion of the Crusades. The policy of strengthening Papal authority shown in this Council is expressed in the above Bull. Scotland, since it was far away from Rome, could and in fact, did flout the authority of the Vatican. Now by this apparent concession to national independence, the central authority of the Papacy was covertly enhanced. In practice, the Papacy did not observe ~~its~~ a consistent policy of conciliation. As soon as 1221, the Bull "Cum Universi" was infringed by the dispatch of James, "cancellarius Sancti Victoris Parisius" as legate to Scotland.² In the reign of Alexander II, as later in the reign of Robert Bruce, the Papacy was in league with the English Crown in its aggressive policy towards Scotland, which on both occasions was under interdict, - in the case of Alexander II, in 1217, less than thirty years after the Bull "Cum Universi."

The general principle behind the policy of the Vatican is clear enough. It was the claim, fruitful of strife in Western Europe, that the Vatican had supreme political powers, that in fact, the Pope was above the King. This is the ultimate explanation of the fact that the ecclesiastical history of Scotland in this period is blended with its political history. The Scottish kings, seeking to centralize authority in the Crown, were inevitably brought into relations with a power claiming authority, spiritual and secular, over their subjects, and ultimately over the Crown itself. To the Pope, the King of Scotland was the protector of the Church by the exercise of his royal power, as the faithful servant of the Church's Head. Honorius III wrote of Alexander II in connection with the murder of the bishop of Caithness by his subjects who revolted against the payment of church dues -

"Nunc scimus.... quod karissimus in Christo filius noster.... Rex Scottorum illustris ad vindictam malefactorum laudem vero bonorum traditam sibi a domino exercent potestatem cum commissas in regno suo nequicias non patiatur impunitas. Iam plene cognoscimus quod libertatem ecclesiasticam diligitquod eum inimia Christi angat et sue zeletur ecclesie libertatem pro cuius defensione mortem subiit episcopus memoratus....."³

1. Patrick, Statutes of the Scottish Church, p.1.

2. Chron. de Lanercost, p.29.

3. Theiner, Vet. Mon. Hib. et Scot. p.21.

So Gregory IX in 1231 to the same king, "ut libertates ecclesie protegat", -

"Rogantes attentiusque exortantes ac in remissionem tibi peccaminum iniungentes quatinus eam (i.e. ecclesiam) ob reverentiam divinam et nostram favore benivolo prosequens, ipsam in suo iure foveas et defendas."¹

Here the authority of the Scottish Crown and the authority of the Papacy appear as working together in harmony. But the breaking-point in the relations of the Pope and the Scottish kings came when the Pope entrenched upon the king's authority as head of the State, when, for instance, he favoured the designs of England upon Scotland, which took the recurring form of seeking to make Scotland a fief of the English Crown. But in three ways, principally, the Papal authority could be a menace to the Crown of Scotland :

(1) The Pope claimed the power of setting the king's subjects free from allegiance. John XXII in 1322, writing of Robert Bruce, declared -

"Si eiusdem pacis reformationi nollet forsitan assentire, vel nostris in hac parte monitis (obtemperare) non curaret, ad id per censuram ecclesiasticam et alias penas prout suaderet iusticia compellendi, necnon et absol- vendi omnes vassallos ~~et~~ subditos eius a iuramento fidelitatis quo tenerentur eidem."²

In any case, this was the virtual consequence of the king's excommunication; and the king's subjects could be coerced and the force of papal power made known by an interdict affecting the whole country.

(2) The Pope claimed the power of disposing of the Crown or withholding it, i.e. he claimed the power of granting or withdrawing the right to rule. By this he could seek as a last resort to bend the king to his will. The preceding rescript of John XXII adds to the words above-quoted "ac dominio et subiectione illius etiam eximendi." In 1329, the Pope granted coronation to the kings of Scotland, requiring them to make oath that they would preserve the immunity of the Church. The Pope's part in the affairs of Scotland during the War of Independence was largely concerned with his claim to dispose of the Scottish Crown.

(3) The Pope could impoverish the country by subsidies, and struck at the stability of the State in his attempts to procure Scottish funds and drain Scottish resources for the purposes of the Curia. Likewise he threatened the king's right to exercise justice over the

1. Reg. Episc. Glasg. p.134.

2. Theiner, Vet. Mon. Hib. et Scot. p.219.

subjects of the realm, by deciding causes outside the country, at the Papal Court, e.g. cases arising out of the election of bishops. Alexander II, when a Papal Commission was granted to an English and a foreign ecclesiastic for trying an action against the Abbot of Kelso, interfered and prohibited it from proceeding, citing the papal privilege ¹ that causes originating in the Scottish kingdom should not be taken before other judges outside the kingdom. ² In 1248, Innocent IV took measures to assure the king that he should suffer no prejudice by his reception of William de Batines, a Friar Minor, sent evidently as a collector of the Holy Land subsidy. ³ Again in 1318, Robert Bruce made an ordinance -

"Quia terra domini regis est de guerra, non oportet propter hoc quod regnum suum depauperetur per alienaciones bonorum deportatas extra regnum, vult dominus rex.... quod nulla persona ecclesiasticus.... abducere seu mandare presumat res redditus aut possessiones extra regnum sine speciali licencia regis...." ⁴

This was, it would seem, a counterblast to the papal intimation in 1317 of a levy of tithes in Scotland, and an instruction to the Scottish bishops to contribute to the levy for the Holy Land laid upon the English king. ⁵ That the Popes were well aware of the suspicious attitude of the Scottish Crown towards their interference in Scottish affairs is shown by the conciliatory measures they adopted from time to time. The unpopularity of Papal legates in Scotland has its crowning instance in the resentment shown towards the Friar Minor sent to Robert Bruce in 1317.

In the recurring conflict of Crown and Papacy, the dice seemed loaded against the Scottish king by the presence within his realm of a religious organisation closely linked to the Papacy, viz. the regular clergy. Landowners within the feudal state, with secular as well as spiritual authority over the inhabitants of their lands, with a voice in the nation's affairs through their abbots who had a place in the councils of the realm, centres of wealth and influence, the religious houses fostered the spirit of allegiance to the supreme authority of the Roman pontiff. When there was any choice of loyalty forced upon them, their consistent course was to follow the Pope against the Crown. Excommunication or interdict could not touch them. The ordinary privilege

1. Given Theiner, p.8, the original concession of Honorius III (1218): "Prohibemus.. ut controversie que fuerint in regno ipso,

de possessionibus eius exorte, ad examen extra regnum positorum iudicium non trahantur, nisi ad Romanam fuerit ecclesiam appellatum."

2. Lib. de Calchou, Pref. p.xxiv. 3. C.P.R. Letters, I. p.243.

4. Reg. de Aberbrothoc, l.p.258.

5. McEwen, I. p.259.

granted to them was -

"Liceat autem vobis cum commune interdictum terre fuerit clausis ianuis et exclusis excommunicatis et interdictis non pulsatis campanis suppressa voce divina officia celebrare."¹

It may be imagined that this privilege by its psychological effects would emphasize the power of the Vatican. While the rest of the land was cut off from the offices of religion, they, alone, the faithful sons of the Church, could continue the service of God and enjoy the benefits of religion.

The period of the War of Independence illustrates most pertinently their position, for at this time the Scottish Crown was for the longest period under the ban of Papal disfavour. The king was able to defy the Vatican; and the Scottish Episcopate, united to the Crown by the ties of feudal allegiance, and essentially national in its outlook gave its support² to the king in spite of the fulminations of the Popes. The bishops were officers of a national church. It is more surprising to discover that with them, the heads of religious houses were associated in the support of the Crown. In the earlier part of the struggle, there was much changing of sides on the part of Scottish ecclesiastics; and in the case of the monasteries, some were ready to give allegiance to Edward I. Their position may be shown by the conduct of successive abbots of Neubottle. One attended the parliament which made the treaty of Brigham in 1289, in which the ecclesiastical independence of Scotland was asserted. His successor, John, did homage to Edward I on July 29, 1292; and again did homage, and with a multitude of other churchmen renounced the French alliance on 28th August of that year, securing mandates for the restitution of the Abbey lands in 1296. Gervase, Abbot of Neubottle, on the other hand, took part in the parliament of Cambuskenneth in 1314, where all who had not come to Bruce's "faith and peace" were disinherited and declared enemies of the king and realm.³ This change of attitude to the Crown can only be accounted for in terms of policy.

We may notice also the case of Melrose, as shown in a charter of James, Steward of Scotland, earlier in the period of war:

"Noveritis universi quod cum dudum per mortem pie memorie domini Alexandri... pacis eiusdem Regni tranquillitatis turbaretur et rei publice diffensio immineret et nos ab hominibus virorum religiosorum Abbatis et Conventus de Melros habitantibus in terra sua de Kyle quam de nobis et antecessoribus nostris

1. Carte Abbacie de Kinlos, p.106.

2. cf. The Treaty in 1304 between Bruce and William de Lamberton.

3. Reg. de Neubottle, p.xx.

in liberam puram et perpetuam tenent elemosinam armorum ostensionem et succursum ad tuicionem pacis publice et regni ac ad defensionem terrarum nostrarum et suarum in Kyle postularem licet dicti Abbas et conventus de Melros in principio restiterunt quia de dictis terris suis in Kyle libere elemosinatis huiusmodi exactionem solvere minime teneantur, tandem publica considerata utilitate ad pacis et tranquillitatis conservacionem ad defensionem regni terrarum que nostrarum et suarum in tali necessitatis articulo hac vice dicti abbas et conventus ex gratia speciali concesserunt ut habeamus succursum dictorum hominum suorum in dicta terra sua de Kyle commorancium."¹

It is possible that Melrose, if we may judge from the number of favours received by it from Bruce, was conspicuous for its loyalty. At a later date (1312) Kihloss was expressly exempted from the obligations which are here asked from Melrose. Again, policy must have led to this concession. By 1318, the monasteries were openly supporting the king: this is evident from the fact that the fifteen abbots who took part in the consecration of St. Andrews Cathedral found no incongruity in the presence of the excommunicate monarch.²

There are certain general reasons which may be assigned for the fact that the monasteries were on the whole loyal in the tensest period of the War of Independence. As they had shown

1. Lib. S.M. de Melros, II.p.359.

2. The position of the Mendicant orders in this period may be noted. They were the most definitely international of the monastic orders, a special danger to the State because of their custom of going from place to place, from country to country. It was a friar-Minor who was roughly handled as the emissary of the English king; but Bruce appears to have gained the undoubted loyalty of the Franciscans, for their house in Dundee was used in 1310 for the provincial Council in which the clergy declared that Bruce was the lawful king of Scotland. He appears to have recognised that he risked their defection by the sacrilege of their chapel at Dumfries, where Comyn was murdered; thus, perhaps, he increased the royal alms to Franciscan friaries and gave the order a new house at Lanark.

a tendency to support Edward I at the time when he was Overlord of Scotland, so for a similar reason they supported Bruce. The Crown was in a strong position. It had the support of the nobility and the Episcopate. The monks as a kind of fourth estate would have placed themselves in a suspicious position and lent themselves to spoliation if they had not supported the Crown. Bruce, as his Parliament at Cambuskenneth showed, would brook no treason. The religious had a need for protection, not only against the invader, but against any appropriation of their revenues or resources by loyal barons or for the needs of the State, a course that might have followed on their neutrality. The maintenance of their possessions was a primary consideration, and, in practice, counted for more than their allegiance to the Pope. In any case, the distance of Scotland from the Vatican, and its increased isolation through the hostile armies on its frontier, made their support of Bruce less conspicuous. The fact that the Pope, in 1320, summoned to Rome four Scottish bishops, as chiefly representative of the churchmen who had supported Bruce, may show that the monks were not felt to be deeply implicated in the political affairs of Scotland. Moreover Scottish monasteries had been purged of English monks, and national feeling counted for something in their attitude to Bruce.¹

But over and above these considerations, the king took steps to ensure their loyalty. Doubtless they may have supported Bruce for prudential reasons: at the same time the king cultivated them by various benefactions. Bruce had been declared excommunicate in 1306, 1309, and lastly in 1318, with all who had dealings with him.² Yet in 1318, in the Parliament held at Scone, when his position as de facto king (but without papal sanction) was well established, the following statute was made -

"In primis statuit dominus rex quod sancta ecclesia Scoticana manuteneatur in pace cum iuribus et libertatibus suis in omnibus et quod sancta ecclesia et sancta religio manuteneatur et custodiantur ab oppressionibus oneribus et gravaminibus illatis eisdem ante ista tempora. Propter quod vult dominus rex et precipit quod nullus de cetero hospitetur in domibus seu grangiis religiosorum seu ecclesiasticorum virorum in destructionem eorum seu bonorum eorum."³

1. cf. the wellknown story of the Abbot of Inchaffray before Bannockburn.

2. Chron. de Lanercost, p.240; cf. the Chronicler's comment (p.238) "Scotti... in pertinacia obstinati de nulla excommunicatione curaverunt, nec interdictum voluerunt in aliquo observare."

3. Reg. de Aberbrothoc, p.249.

The special mention of the religious houses is probably significant of the king's desire to secure their loyalty. It is noticeable that the king showed favour to individual monasteries. Melrose in 1308 is taken "sub firma pace et proteccionem nostra", and injury to them forbidden under pain of full forfeiture. Most remarkable, however, are his concessions to Kinloss.

.... pro illis terris et possessionibus... infra Regnum
 "Volumus et concedimus quod predicti Religiosi, Scocie constitutis nobis aut cuicunque curie (vicecomitis) Camerarij vel Justiciarij aut cujuscunque alterius nomine nostro quocunque tempore in futurum nullam sectam vel aparitionem facere teneantur vel ad indictamentorum depositiones et armorum ostentationes propter terras suas predictas venire sive ad contributionum solutiones seu quascunque consimiles consuetudines vel servitium aliquid seculare nullo modo compellantur vel (eciam) ad exercitum nostrum vel successorum nostrorum venire nisi quando in literis nostris vel eorum expresse contentum fuerit ut unusquisque pro capite suo vadat....."2

Here a monastery situated outside the region of war is given sweeping exemptions from feudal services, and from such military obligations as appearance at wapinshaws, from levies of money or men. This appears an unusual and risky concession in time of national danger. But it may be explained by the king's desire to placate a religious house which had considerable property and jurisdiction in an outlying part of the kingdom; perhaps to secure its allegiance to the Earl of Moray, one of his chief supporters.

Other religious houses were the recipients of privileges from the Crown. Holyrood, Melrose, Paisley, Cambuskenneth and Balmerino among others, shared in the royal favour in the period to 1318. From a survey of this period of Scottish history, a time when there was at once the most dire threat to national independence, and a lengthy break with the Papacy, certain conclusions may be drawn in regard to the relations of the Papacy and the Crown, and the position of the religious houses during this conflict of authorities. The Popes were not able to subvert the authority of the Crown in Scotland, because the Scottish kings were in a strong enough position in their own land to defy the Vatican; and the weapons of interdict and excommunication were blunted because the Scottish Church could exist as a religious institution apart from papal control.

1. Lib. de Melros, p.324.

2. Carte Abbacie de Kinlos, p.127-8.

The Scottish Crown could seek papal support but refused papal domination: and the point of view of the Scottish Kings was that theirs was not a delegated authority, but sovereignty per se. Whatever else was the papal theory of monarchy, this was the fact with which the popes were confronted. Bruce, for instance, sought reconciliation with the Vatican, but on his own terms.

Moreover, the king could, by diplomatic dealings with the regular clergy, or if necessary, by compulsory measures, stave off the danger that they might be agents of the political designs of the Papacy. The Crown never really admitted the immunity of the monasteries from loyalty. Two dangers, however, remained. The religious houses might be the channels through which money could pass to the Curia from Scotland. They might also be the political agents of a foreign power, which had the support of the Pope in its designs on Scotland.

Chapter III.

The domestic policy of the Scottish Crown in the period until 1378 was on the lines of a strict nationalism. Its aim was to centralize authority in the sovereign, to extend his authority over the whole realm, to develop and husband the internal resources of the kingdom. This policy is seen in the political, economic and religious spheres. Politically, the Crown was engaged in introducing the reign of law and order in parts of the realm imperfectly under royal control, e.g., Argyle, Caithness, Moray, Galloway. Economically, its policy was "Mercantilist" or "Bullionist", aiming at the keeping of the national wealth within the national bounds. This was one reason why papal collectors were apt to fare badly in Scotland. In the religious sphere, the autonomy of the Scottish Church was on the lines of royal policy.

Correspondingly, the foreign policy of the Scottish kings may be described as defensive. The nation was chiefly subject to aggression from one quarter, namely, England. The intervention of the Papacy in the affairs of Scotland was complicated by the fact that the weight of papal support was sometimes thrown on the English side. Thus the foreign policy of the Scottish Crown was largely concerned with the Papacy, as a political force that claimed the right of arbitration in the foreign affairs of the nation, and chiefly in its dealings with England, whose sovereigns from time to time asserted a feudal right to the territory of Scotland, and were the aggressors against whom the resistance of the Scottish nation was chiefly called forth.

We have seen that the Scottish Crown regarded the claims of York to metropolitan authority over Scotland as an implicit

claim to the suzerainty of the English Crown over Scotland, and therefore to be resisted: likewise, that those kings, such as Alexander I and David I, who were bent on Anglicising the political, legal and ecclesiastical institutions of Scotland refused at the same time to admit English claims to authority, ecclesiastical or political, in Scottish affairs. Here, again the period of the War of Independence illustrates the position most clearly. In the early part of the struggle Boniface VIII, in 1299, arbitrating on the claim put forward by Edward I, that Scotland is a fief of England, gives the opinion that "when Henry III sought help from his son-in-law, Alexander, King of Scotland, against Simon de Montfort, letters patent were granted by Henry showing that such help was given only by favour.... when Alexander did fealty for the lands of Tyndal and Peynere in England, he declared aloud before all that he did so only for those lands and not as King of Scotland, nor for his realm.... These and other points are urged as showing that Scotland is not a fief of England, and that the king has no right to occupy castles, destroy monasteries and injure clerks or laymen of that realm...." ¹; while the Scots alleged against the king of England's claims -

"Que le roialme Descoce est fraunc et nient en vestre subjection et en cynkus maneres, par privileges de papes, par droit comun que un roialme ne deit mye estre sugiet a un autre, par prescripcion, par fraunc estat en touz jours et par divers instrumentz des rois Dengleterre."²

The real point at issue in the relations of Scotland with the Pope at this period, was the question of the independence and integrity of Scotland as a sovereign state. It was when the wardens of Scotland heard that "the king of England, in levying a tithe on the clergy of his kingdom aimed at wholly subverting the kingdom of Scotland and bringing it under his sway," that they sent envoys to Boniface VIII to protect their realm.³ The weight of Papal opposition to Bruce was secured by the diplomacy of Edward I, who secured at one point, a promulgation of the sentence of excommunication against the Bruces by stating that they hindered the English project of undertaking a Crusade, in compliance with the recommendation of the Council of Vienne.⁴ But in other cases, the Papacy used the English king as a coercive force towards executing Papal designs in Scotland, incidentally fostered English aims of domination in Scottish territory.

1. C.P.R. Letters, I. pp.584-5.

2. Letter from English agents at Rome to Edward I; given in Illust. Docs. to Chron. of Lanercost, p.517.

3. Book of Pluscarden, VIII, Ch. XXIX, p.123.

4. Notes to Chron. of Lanercost, p.420.

In the earlier part of the period under consideration, the presence of Anglo-Norman barons in Scotland was a symptom of the Anglicization of Scotland, which was also its feudalization. These foreigners settled on Scottish soil and became feudal tenants of the Scottish Crown. But from the reign of Malcolm Canmore, the Scottish Crown was instrumentalⁱⁿ introducing colonies of men who were foreigners to Scotland, in the monks who were brought to the newly founded monasteries of Scotland. Dunfermline was colonized from Canterbury; Coldingham from Durham; the canons of Scone came from Pontefract; the monks of the Isle of May from Reading; Melrose and Dundrennan were colonized from Rievaulx; Paisley from Wenlock. Kelso, Kilwinning, Arbroath and others were drawn from the French order of Tiron. It is to be noticed that this process was due to the deliberate policy of the Crown, under whose favour, the regulars settled in the land and were endowed with revenues and privileges. Moreover, these monastic settlements in many cases existed in intimate dependence on their parent-houses outside the country. Thus, in the case of Paisley, (post 1163) the Abbot of Cluny confirmed the rights conferred in the charter of foundation¹, and these were also confirmed by the prior of the mother-house of Wenlock; and the election of James, as abbot, in 1349, is confirmed by the Abbot of Cluny.² Again, the Benedictine house at Coldingham was a dependency of the monastery of Durham. The presence of English regular clergy on Scottish soil created a special problem. Introduced by the Scottish Crown, to monasteries dependent on English parent-houses, they were from time to time under suspicion. Not only were they the emissaries of the Papacy: they were potential spies in the English interest, and their houses possible centres of treasonable activity.

Although Scottish sovereigns from David I to Alexander III were ready to resist any threats of aggression against the independence of Scotland, they sought generally to pursue a policy of national development, for which peace was necessary; and the introduction of English monks in the earlier period, may have been to some extent, an earnest of the desire to secure peace between the two nations. In the reign of Alexander III, however, there were signs that the presence of English regulars in Scotland was recognised as a danger. Already in 1215,

Alexander II had destroyed the monastery of Holmcultram in Cumbria, in an invasion of England in support of the barons.³ This monastery had received benefactions from David I. The action of Alexander II was evidently a sign that the Scottish

1. Reg. de Passelet, p.3.
2. C.P.R. Letters, III, p.350.
3. Chron. de Lanercost, p.18.

king recognised that this house of regulars in the "debatable Land" might be a centre of antagonism to Scotland. But the initiation of a movement against the presence of English regulars in Scotland began with the case of the Isle of May, in 1269.

This house of Cluniac monks, founded by David I and colonized from Reading, had acquired a political significance in the opinion of the Scottish Crown. According to Fordun,¹ on the death of Prior Hugh in 1269, William, a monk of Reading, was, with the assent of King Alexander, admitted as Prior of May. Since, however, the island might be used as a centre of English espionage, the king decided to purchase it from the Monastery of Reading. William Wishart, Bishop of St. Andrews, carried out the purchase for seven hundred merks, and bestowed the priory on the Augustinian canons of St. Andrews. The details in Fordun's narrative are inaccurate. In 1292, the transaction was still under discussion, and had been turned to political account. In the Parliament, held at Scone, on 10th February, 1292, by John Balliol, two representatives of the Abbot of Reading were present, authorized to claim possession of the priory, or to get payment of the balance of the price paid², along with the revenues of the priory for the last four years, with power to appeal to Edward I. Finally, the Scots appealed to the Apostolic See, and Edward I, as Overlord of Scotland, on the appeal of the representatives of Reading, who alleged a denial of justice in the Scottish Courts, cited

John Balliol to appear before him in the case, in 1293, a summons which was unheeded. The intervening period of war precluded further discussion. But, by 1318, all the rights of the priory of May had been transferred to the canons of St. Andrews.³

The action of Alexander III⁴ may have been due to the contemporary circumstance that the legate Ottobon had persuaded the Pope to grant the tenths of the Scottish kingdom to the king of England for purposes of a Crusade, an exaction which the king and clergy of Scotland repudiated. But the suspicions of the Scottish Crown were obvious, even in these years of peace with England. The question of English regulars in Scotland became much more acute in the ensuing period of the War of Independence.

In 1289, Nicholas IV made an inhibition. "forbidding anyone not a native of Scotland, to be admitted to take the habit in any house of a religious order in that realm or to hold any dignity of the same."⁵ This was a considerable concession to Scottish feeling. at the very time when the Treaty of Brigham, ratified in an assembly in which the Church was strongly

1. Scotichronicon, II, pp110-111 (Goodall's Edn.) quoted Carl. Prior de May, Pref. pp. xxii-xxiii

2. It appears that the Bishop of St. Andrews had paid not 700 but 1100 merks towards the purchase price.

3. Records of Priory of May, Pref. p. xxii-xxvi.

4. This king was the subject of a complaint to Gregory X that he compelled churchmen to appear in the secular courts (Lib. de Scon

5. C.P.R. Letters I, p.497.

represented, asserted the independence of the Scottish Church, and forbade bishops to render fealty to any foreign king.¹ More drastic measures were taken in 1296. "Owing to most unmistakable grounds for mistrust and strong proofs of villainous plotting," the beneficed English in the diocese of St. Andrews were deprived of their benefices, at the instigation of William Fraser, Bishop of St. Andrews, and "every single other Englishman both clerk and layman was cast out of the kingdom of Scotland for plotting."² Wallace carried out this policy of expulsion.³ But more striking is the account given of the expulsion of the English monks of Coldingham -

"On grounds of ingratitude and the crime of high treason the priory of Coldingham, which previously belonged to the monastery of Durham, was bestowed upon Dunfermline abbey by King Robert, as could be most fully proved by proofs prepared thereanent, and shown to the said monastery. The king was prompted thereto chiefly by a prior of English birth, named Claxston, having revealed certain royal secrets of the most secret council of the realm to the council of the King of England, in violation of the oath he had taken; together with many other infamous acts which prompted the king thereto, such as the bringing of base coins, both gold and silver, into the country, in contravention of the royal edict of the parliament of Scotland."⁴

There were six English monks at Coldingham in 1323, who petitioned the Pope for absolution, in respect of the fact that while Scotland lay under interdict, they, out of fear and under compulsion, and to avoid leaving the country, and exposing their priory and its belongings to destruction, publicly celebrated mass.⁵ At this time, they were still under suspicion. Thus is illustrated the danger that the Scottish Crown foresaw from religious houses controlled from England. The War of Independence made it clear that the internationalism of the Monastic Movement was more apparent than real: and the policy of keeping Scottish monasteries for Scotsmen was based on the idea that the regulars were likely to act as Scotsmen or Englishmen first, and as monks secondarily.

1. McEwen, I. p.253.

2. Fordun, Scotichronicon, XCI, p.318.

3. Ibid. p.323.

4. Book of Pluscarden, VIII, Ch. XXII, p.113. At a later time (1461), the treasonable activity of a Prior of Coldingham was used as a pretext by Patrick Hume, who sought to hold the Priory in commendam. "John Pincher, a monk of Durham and Prior of Coldingham has contrived and done his best to perform diverse things to the hurt of James, King of Scots..." (C.P.R. Letters, XI, p.425-6).

5. The Priory of Coldingham (Surtees Socy.), p.11.

The dependence of Scottish religious houses on parent-houses in England or France was virtually a denial of the ultimate authority of the Crown over certain of the inhabitants of Scottish territory. In the case of the monasteries which were linked to a parent-house in France, the bond had little political significance and was mainly formal.¹ It was different where monasteries were dependent on English houses; only by drastic measures could the Crown avoid the danger that they might act against the interests of the State, as agents of the Papacy, and the English king. Even in the case of houses like Coldingham and May, which owed their existence and endowments to the Crown of Scotland, the Scottish kings did not hesitate to reverse their policy of favour, when the exigencies of national interests required the change. The king was concerned, first, to maintain his sovereign power, only secondarily to be patron of the monasteries.

1. Kelso was procurator for Tiron in collecting three merks of the ferme of Kelso, given to Tiron by David I. (Lib. de Calchou, p.310).

Note to foregoing Chapter.

There is one curious instance of the part played by the monasteries in international relations, which arises immediately after the return of David II in 1357. On 8th November of that year, the king in Council at Scone (the first Council since his release) granted letters patent regarding Melrose. The king, addressing Justiciars, Sheriffs etc. and his loyal subjects in general, says -

"Sciatis quod non est nostre voluntatis intencio quod licet Religiosi viri et capellani nostri Abbas et conventus monasterii de Melros sint iam ad fidem et pacem Anglicorum per vim et compulsionem necessariam constituti quin ipsorum terris redditibus bonis et possessionibus universis et singulis ad fidem et pacem nostram existentibus ita libere plenarie et in pace gaudeant sicut eis aliquo tempore predecessorum nosterum Regum Scocie liberius plenius aut quocius sunt gavisii et de eisdem terris suis redditibus bonis et possessionibus suis quibuscunque libere disponant prout sibi melius videbitur expedire sine impedimento aliquali. Ita quod homines terre bona et possessiones ipsorum Religiosorum ad fidem et pacem nostram existentes et existencia ad redempcionem nostram plene faciant sicut ceteri pares sui de regno nostro..."¹

Thereafter follows an inhibition against doing any injury to the monastery's possessions.

1. Liber de Melros, II, p.398.

A crucial position is revealed here. The Scottish King extends his protection to Melrose, which is "placed in the faith and peace of the English by force and compulsion." Presumably this refers to the time of the "Burnt Candlemas", when the English had invaded Scotland (1356), and Melrose may have been saved from the destruction which befell many places in the south of Scotland, by submission to the invader, thus gaining his protection. Their lands and other sources of revenue were normally under the patronage and protection of the Scottish Crown. In the year 1357, David II, who had already shown strong leanings towards English interests which were ultimately his own, was released. His protection of the possessions of Melrose, in spite of that abbey's allegiance to England, appears to be a piece of self-interested policy; for it transpires from the above-quoted charter, that the king's aim is that Melrose, from its lands and revenues under the protection of the Crown, may contribute to the King's ransom.¹

A charter of 1360 is even more explicit. The king makes it known -

"Quod nos cum consilio nostro mera benignitatis influencia pie considerantes quorundam religiosorum Regni nostri loca ac monasteria in domigerio anglicorum super marchias situata a quorum tediis infestationibus ac gravaminibus nisi per sollicitorum tractatum ac mutuarum convencionum succursus et remedia eripi nequeunt quovismodo concessimus et per presentes concedimus ac licenciam specialem et liberam dedimus et damus ex gracia nostra speciali dilectis capellanis nostris et religiosis viris Abbati et Conventui monasterii de Melros qui ipsorum anglicorum pressuras et gravamina multipliciter inter ceteros sunt exempti quatinus ipsi per se et suo monasterio possessionibus terris ac bonis suis quibuscunque aut hominum suorum sine calumpnia et vexacione nostri ac ministrorum nostrorum quorumcunque quocienscunque et quandocunque eis expedire videbitur cum ipsis anglicis tam clam quam palam valeant libere protractare et protractando mutue convenire...."²

The king's Justiciars and other officials and his subjects in general are inhibited from any interference with or damage to the monastery, in respect of the above concession.

1. Cf. the Agreement of 1363, with England, that Scotsmen who had given up their allegiance to the Scottish Crown were to be reinstated in their lands. (Hume Brown, History of Scotland, I, p.178.)

2. Lib. de Melros, II, p.404.

Here, there is no explicit mention of the motive of this grant by the Crown; and the particular point conceded is somewhat different. The monks, situated in the "Debatable Land", are allowed, for their own safety, to enter into negotiations with the English, and the king's inhibition may be directed against patriotic barons or officials, who might, on the grounds of the monastery's dealings with the English, attack them as engaged in treasonable correspondence. If the king's original motive held good, it is clear that at this particular time, the Scottish Crown was made to depart from its more usual policy of insisting on loyalty, by the exigencies of an unusual circumstance, viz. the need of raising money. It is a curious commentary on the relations of the religious and the Crown, that the monastery that received extensive benefactions from Bruce to secure their allegiance when this was a national necessity, should now, when the king's interest was different, be encouraged to pursue the different policy of entering into relations with a foreign power.

Chapter IV.

We may now attempt to investigate in a general manner, the relations of the Crown and the monasteries, and especially, the attitude of the Crown towards them.

The aim of the Crown in the first part of the Middle Ages in Scotland was, first, to stabilize its power over a consolidated nation. To that end, the kings sought to bring outlying parts of their territory, as yet imperfectly civilized rather than feudalized, under the influence of law and order by fostering, also, the arts of peace, as a means of increasing the national wealth and resources. Again the Crown sought to secure for Scotland national independence (of which ecclesiastical autonomy was one aspect), security against aggression from England and the integrity of Scotland as a sovereign state, unity, in the sense that Crown, barons and church should work together in the national interest. The aim of the Crown was, indeed, the untrammelled working of the Feudal System in Scotland, centred in the authority of the Crown over a country where each constituent unit contributed towards the national wellbeing.

How could the monasteries help or hinder the aims of the Crown? We may note, first, how they could and did assist the royal policy. The introduction of Monasticism into Scotland was due to the Crown and part of its policy of Anglicising Scottish institutions, which meant, in fact, the feudalization of Scotland; to this end, the Monastic houses lent themselves. They arose in every part of Scottish territory: and the localities in which they arose were those in which they were needed.

They came as the pioneers of the Church of Rome which had now gained a firm footing in Scotland. But along with their religious faith and life, they may be said also to have brought its environment, the environment in which it existed in Western Europe, the secular civilization and institutions which were the concomitants of the Church of the Middle Ages.

This was in accord with the aims of the Crown. David I, bent on remodelling the Scottish State on the lines of Feudalism, found an ally in the regular clergy, and his encouragement of their settlement in Scotland was due to the knowledge that they could further the purposes of the Crown. They were a means of carrying the new order, religious and secular, into every corner of the land; and by the exercise of the royal patronage, were put in possession of faculties to exert themselves in favour of the royal schemes.

It is significant that monastic houses arose in parts of Scotland which were late in coming under the complete authority of the Crown. Galloway, Ross, Moray, Argyle, for instance, were still imperfectly under royal control, when Scotland was apparently consolidated into one kingdom, and were virtually ruled by turbulent chiefs, who from their isolated position in rough and inaccessible territory could hold the Crown at defiance. Kinloss, Beaulieu, Fearn, Ardochattan, Pluscarden, Glenluce, Tungland and others arose in the distant and uncontrolled parts of the realm. The rise of Valliscaulian settlements in the Highlands is illustrative of the connection between royal policy and the spread of the monastic movement in outlying territories.

In 1221, Alexander II having made a permanent peace with England, began the task of establishing the authority of the Crown in the more turbulent parts of his kingdom, and notably in the Western and Northern Highlands. An expedition into Argyle in 1222 led to the expulsion of the family of Somerled, Lord of the Isles, and his vassals became vassals of the Crown. Among these was Duncan MacDougall, who founded the Priory of Ardochattan in 1230. In 1228, the last attempt was made by the Celtic population of the North to place upon the throne the heir of Malcolm Canmore, according to the laws of Celtic descent. Gillespie McFarlane, the leader of the rebellion, who set fire to Inverness, was defeated and slain. Ere this, the speedy vengeance of the king on the murderers of the Bishop of Caithness had made the royal authority felt in the northmost part of the realm; and the restoration of order in the Highlands was completed by the quelling of revolts in Moray. In 1230, the assertion of the authority of the Crown in the North and West was followed by the settlement of the monks of Val de Choux at Pluscarden, in Moray, at Beaulieu in Ross, and at Ardochattan in Lorn. From the austerity of their rule, and their custom of choosing remote places for their settlements, the Valliscaulians were well adapted to be the

harbingers of a better civilization in their new abodes in Scotland. It was probably the astute adviser of the king, William de Malvoisin who saw their suitability for settlement in the newly subjugated territory. Duncan MacDougal, in founding a priory for the Valliscaulians in Lorn, did so, it has been said, as "a peace-offering to King Alexander II."¹

The settlement of the Valliscaulians in Scotland is also an example of the introduction of particular Monastic orders as a means of furthering the aims of the Crown. The Benedictines, introduced by Margaret and Edgar, were the representatives par excellence of Western Monachism, through which Scotland could be brought into line with Roman usages, the effective protagonists of the movement to oust the Celtic Church. It is noticeable that Augustinian canons were introduced into the strongholds of Celtic monasticism, namely, the places where there were Culdee settlements, e.g. St. Andrews. Alexander I and David I, who were instrumental in introducing the canons, did so with the design of counteracting a strong Celtic influence. The royal encouragement of the Friars, who first appear in Scotland in the reign of Alexander II, followed on the recognition by the Pope of the independence of the Scottish Church. As the monks of Val de Choux were introduced to foster civilization in the remoter districts, the Friars may have been welcomed as a civilizing influence in the towns where their houses were situated. They came as the representatives of the Roman Church with which the Crown was at this time on terms of amity. Their dangerous political potentialities may account for the request of Alexander III, in 1260, that the Friars Minor should have a Provincial Minister in Scotland,² for thus they might be more definitely a national organisation under royal patronage. The large proportion of annual donations "ex elemosina regis" to the Franciscans, Dominicans and Carmelites indicates how largely they depended on the royal bounty.

The policy of the Crown in furthering monastic influence in the outlying parts of the kingdom is shown by a transaction for which William the Lion was responsible. Certain Churches in Galloway, which belonged to the Abbey of Iona were made over by that king to the canons of Holyrood.³ The only reason that can be assigned for this transaction is that Holyrood was more likely to exert influence in Galloway than the remote monastery of Iona. It may be an example of a practical attempt on the part of the Crown to enhance monastic influence in a disturbed part of the realm.

1. Chisholm-Batten, History of Beaulieu Priory, p.148.

2. Moir Bryce, Grey Friars, II, p.275.

3. Liber Sancte Crucis, p.41.

Chapter V.

In general, the Monastic Movement in Scotland could be turned to serve the ends of royal policy. How they did so, in particular may now be noted, and first, as an aid to royal jurisdiction.

The religious houses were given the status of feudal landowners, highly privileged by their exemptions from military service and other feudal obligations, but exercising otherwise the functions of tenants-in-chief of the Crown.¹ There is no reason to doubt that, in comparison with the secular barons, they were good landlords. The secular lords were chiefly qualified to excel in war; whereas, the religious, in touch with the civilization which was Continental rather than Scottish, and able to draw on the services of an organised community attached to their houses, were fitted to excel in the arts of peace, to foster religion, law, education and industry. As self-enclosed corporations, endowed with revenues, and exempted from the necessity of expending their resources except in their own interest, they had a unique opportunity of creating wealth. For these reasons, their place in the Feudal System was of the first importance to the Crown. In a realm where society was organised primarily with a view to defence, they held a unique position in contributing certain vital services to the State.

The common grant of jurisdiction within their own lands may have chimed in with their design to secure for themselves and their tenants freedom from interference by secular powers and to utilize secular authority in their own interest, to preserve for themselves the pursuit of the religious life, and to protect their possessions and rights. Strictly speaking, the exercise of justice was inconsistent with their life as regulars: it was at the same time implicit in their position as feudal tenants, and a lucrative source of revenue. But it was also in the interests of the Crown that they should have power to preserve order in their own lands.

Apart from any grant of jurisdiction they had the power of maintaining order by religious sanctions. About 1247, for instance, the Pope granted to the Abbot of Kelso authority to "excommunicate by name known thieves and invaders of their estates and property and whosoever was guilty of doing evil to the

1. Their feudal position is illustrated by instances of homage rendered to the heads of religious houses. E.g. In 1244, the Prior of St. Andrews held his court at Dull in Atholl... on which day Colin, son of Anegus and Bridin, his son and Gylis, his brother rendered their homage as his liege man. In 1249, Andrew, son of Gilmur, clerach of Dull, made his homage to the Prior, with bended knees and folded hands. (Reg. St. And. p.349).

church."¹ But the grant of lands in free barony (a common form of grant to religious houses) implied the privilege of exercising justice in the baronial territories, saving the four pleas of the Crown; and the monasteries frequently had this jurisdiction confirmed to them by royal authority, with the characteristic right of using the method of ordeal, e.g. William the Lion to Arbroath (1211-1214) -

"Concedo etiam eis liberam curiam cum sacca et socgo cum toll et temet et ferrum et duellum, fossam et furcas..."²

Similarly Malcolm IV to Scone -

"Sciatis me concessisse... curiam suam habendam in duello in ferro in aqua cum omnibus libertatibus ad curiam religiosorum iuste pertinentibus cum libertate nulli respondendi extra curiam suam propriam."³

Most notable perhaps is the precept of David I to the Abbey of Dunfermline (1135) -

"Prohibeo quod homines abbatis de Dunfermelyn de Nithbren alicui non respondeant de placitis et ~~et~~ calumpniis unde calumpniati fuerint, nisi in curia Sancti Trinitatis et Abbatis de Dunfermelyn et precipio quod iudex meus illius provincie cum hominibus qui illuc placitari venerint intersit ut placita et justitie juste tractentur."⁴

The presence of the king's judge in the monastic court raises the problem (which belongs to a succeeding section) of the extent to which the Crown sought to control the jurisdiction of the monasteries. Cosmo Innes, in the Preface to the Acts of the Scottish Parliament has noted⁵ that this charter "is plainly the forerunner of the law of William I that no court of Bishop or Baron shall be heard without the king's sheriff being present to see "quod curia recte tractetur."" It seems clear that the aim of the Crown, as the head of judicial organisation of the State, was to see that justice was administered impartially. This was, however, as likely in the end to benefit the monastery as those tried in its courts. The king's representative, present as the safeguard of justice to the king's subjects, could also act in an advisory or compulsory capacity; the presence of the secular officer of justice became auxiliary, and it appears doubtful whether the spirit of William I's law was observed. In 1220, Gilbert,

1. Morton, Monastic Annals of Teviotdale, p.87.

2. Reg. de Aberbrothoc, I, p. 4.

3. Lib. de Scon, p.9. Cf. Holyrood's grant of "examen duelli aquae et ferri calidi". (Lawrie, E.S.C., p.116).

4. Reg. de Dunfermlyn, p.12.

5. A.P.S., I. p.47.

6. The precise words are "neque episcopi neque abbates neque comites neque barones neque aliqui libere tenentes." (A.P.S., I. p.374).

Earl of Strathearn is found granting to the canons of Inchaffray, the help of his officials of justice to carry out their powers of jurisdiction. They have, he says,-

"liberty to hold courts of their own for the trial of men living in their lands, in the case of any charge being made of an offence which pertains to the earl's court..... He beseeches his friends and commands his bailies, his steward and his deemster..... that when asked they should without delay go to the priors and canons and hold the canons' courts even as they would his own".¹

The furtherance rather than the restraint of the judicial powers of the monastery is evident here. Still more is this apparent in a charter of Alexander, the Steward of Scotland, with reference to the holding of certain lands in Kyle by the monastery of Melrose.

"Concedo insuper pro me et heredibus meis predictis abbati et monachis libertatem tenendi placita sua ubicumque voluerint in tenemento de Carentabel et de Mauchlyn et de Barmor quodcumque sibi viderint expedire cum omnibus libertatibus quibus ego et heredes mei curiam nostram de prestwick tenemus vel tenere debemus et capiendi omnia forisfacta et escaetas et amerciamenta in eisdem placitis obveniencia. Et si in dictis placitis de furto vel aliis criminibus visnetum capere voluerint volo et concedo pro me et heredibus meis quod ballivi nostri de dundovenald in cujuscunque manu fuerit faciant homines nostros quot habuerint necesse ad eadem placita venire ad curiam roborandam et ad visnetum faciendum cum hominibus dictorum abbatis et conventus dummodo iidem ballivi nostri per unam noctem antea fuerint premuniti. Et si in curia dictorum abbatis et conventus aliquis convictus fuerit de furto vel alio crimine pro quo mortem pati debeat post iudicium redditum in eadem curia corpus tantummodo ballivis meis liberetur..... salvis prefatis abbati et monachis catallis dampnati. Et si in eadem curia duellum adiudicatum fuerit inter aliquos post idem iudicium idem duellum fiet in terra nostra et catalla et escaeta occisi erunt abbatis et conventus. Et si ballivi mei vel heredum meorum presentes non fuerint cum hominibus meis ad visnetum faciendum seu corpora damnatorum recipienda volo et concedo pro me et heredibus meis quod liceat ballivis abbatis et conventus visnetum capere per baronias quas voluerint et damnatorum per se vel per ballivos domini regis punire secundum quod in curia dictorum abbatis et conventus fuerit iudicatum. Et si homines eorundem abbatis et conventus in terra mea forisfecerint vel homines mei in terra ipsorum excesserint delinquentes sive arestati fuerint vel attaghiati sive non in cuiuscunque nostrum terra ad curiam domini sui revertentur iusticiam facturi conquerentibus ita tamen quod dominus curie percipiat forisfacta..."²

1. Inchaffray Charters, XLIII, p.191.

2. Lib. de Melros, I, p.286.

This charter, confirmed by Alexander III, in 1266 is a very complete account of the judicial functions of the monastic court. It indicates the use of the 'visnet' system, that is the use of a 'jury' of the men of the neighbourhood¹; and marks the scope of the criminal jurisdiction exercised, which in all respects, except the use of the duel, was equal to that of a baron. But for our present purpose it is noteworthy in particular, that there is no question here of any drag on the monastery's power. Its bailies or the royal bailies are empowered to put the judgments of its court into execution. The suspicion of the impartiality of the monastic courts had either disappeared; or the privilege, as valuable in the estimation of the monasteries, was successfully asserted. The Crown officials, far from interfering in the administration of justice, assisted it and the intention of control, manifested in the statute of King William, had been waived. There is an explicit provision against any interference with the courts of the monastery, in the charter granted to Arbroath in 1325:

"Cum religiosi viri Abbas et conventus monasterij Sancti Thome² de Aberbrothoc terras suas in regno Scocie in libera regalitate teneant et possideant nec quisquam ministrorum Domini regis in curijs eorundem se debeat de quoquam intrmittere ego, Robertus de Lawedre Justiciarius Scocie et domini custodis eiusdem locum tenens palam protestor in hiis scriptis... quod anno gracie M^o CCC^o trecesimo quinto vicesimo die marcij curie dictorum religiosorum apud Aberbrothoc personaliter interfui non tanquam regius officarius sed ad instanciam ipsorum abbatis tanquam frater capituli eorundem nec idcirco quod ex hoc preiudicaretur ipsis in posterum sed ad munimen sue curie suique consilii fulcimentum....."³

This charter is clearly given to safeguard a privilege of the monastery and to prevent the presence of a secular official in its courts from being a precedent. But it indicates more especially that the representative of the Crown is present in an advisory or auxiliary capacity to help the monastery to administer justice. In this, as in the case of Melrose, the monks are given facilities to carry out an important function in the State, with the consent and support of the Crown.³

1. Visnetum = vicinetum.

2. Reg. de Aberbrothoc, I., p.223. A similar privilege was given to Kelso in 1343. (Reg. Mag. Sig. I. p.483.)

3. The instance of Alexander II's grant of a free court to Holyrood (1246) in their land of Dunrod in Galloway may be mentioned here. The king ordains that none of the "heirs of Galloway or their bailies may hinder the holding of a free court in the territory of Dunrod." (Liber Cart. S. Crucis, p.62).

Their courts were a means of maintaining privileges which enabled them to govern their own domains. Witness the instance of the Abbot of Kelso summoning, in 1223, the burgesses of Wester Kelcow into his court "to answer to his complaint of their having on their own authority made new burgesses, licensed brewers etc..... without his consent, contrary to his rights and privileges as their feudal lord. The burgesses..... made an apology, admitting they had no right to act as they had done, but disclaiming any intention to offend their lord, the abbot,"¹

Here, in asserting their own rights, they were likewise insisting on the principle of the authority of the feudal lord over his dependents which was fundamental in a State organised after the feudal pattern.

Not infrequently, the religious houses held lands in regality, which implied a higher jurisdiction than in lands held in barony. The monastery of Arbroath, for example, held lands in the parish of Tarves, in pure and perpetual regality, and Robert I in 1313 made the provision -

"Quod dicti abbas et monachi et eorum ballivi nomine suo curiam Regalitatis...sicut curiam Regalitatis apud Aberbrothoc liberius..... tenuerunt seu tenere potuerunt....."²

The grant of lands in regality "conferred", according to Erskine, "civil jurisdiction.....equal to that of a sheriff; (their) criminal (jurisdiction) extended to the four pleas of the Crown,"³ for it was equal to the Justiciary as to every crime except treason."⁴

It is thus clear that the Crown was willing and perhaps increasingly willing; within this period, to give the monasteries a large measure of delegated authority, to support them in its exercise, and to supply the means of putting it into force. Doubtless, their powers of jurisdiction were a privilege, sought because it was lucrative. Yet while it was in their interest to have this amount of immunity from secular interference, and to be able to protect themselves from and retaliate on aggressors, it was also in the interest of order in the State, that in the widespread lands of the religious, justice should be administered and order maintained by those who held them.

1. Morton, Monastic Annals of Teviotdale, p.90.

2. Reg. de Aberbrothoc, I, p.212.

3. This is stated explicitly in the case of Kelso. (Reg. Mag. Sig. I, p.483)

4. Principles of the Law of Scotland, 17th. Edn., p.36. Erskine notes that "As this ample jurisdiction was attended with too great power and influence, a stop was put to further grants in regality without consent of Parliament."

5. As when the monastery of Melrose was given assistance in pursuing thieves in Galloway. (Pref. to A.P.S. I. p.47); or, more strikingly, as in the charter of Alexander II granted before 1215 to the Abbey of Cupar: "Mando etiam...ut ubicunque infra potestatis nostras predicti monachi de Cupro poterint invenire pecunias suas sibi furto sublatas, vel earundem vestigia opem eis conferatis ad vestigia illa exequenda et pecunias suas sibi perquirendas, (Continued

Chapter VI.

We may now pass to consider the monasteries as a national asset in promoting other features of an enhanced civilization. They made a direct contribution to the welfare of the State by the development of the national wealth.

First, they did much towards the development of one great industry. The promotion of agriculture by the religious houses was encouraged by the Crown. In the charters of Melrose, there are strict rules for the protection of agriculture, and signs of the good husbandry of the Abbey. In papal bulls, there is common evidence of the agricultural activities of the monasteries, in the frequently recurring clause -

"Sane.... movalium que propriis manibus aut sumptibus colitis.... sive de ortis virgultis et piscacionibus vestris seu de vestrorum animalium nutrimentis nullus a vobis decimas exigere.... presumat." ¹

The protection of land reclaimed by their efforts indicates the performance of this important service to the cultivation of the soil. In this work, they were supported by the Crown. Edgar gave to the monastery of Coldingham twenty-four animals (presumably oxen for ploughing) for the reclamation of the land of Swinton. ² The monastic 'granges', centres of agricultural activity in their locality, were specially protected from rapine and destruction. Robert I, who by statute of 1318 protected these granges from damage, granted to the canons of St. Andrews, in 1327, that all the granges belonging to them and those serving in the same should be exempted from all exactions and tallage. ³ Between the granges in different territories held by the monks, was a system of intercommunication, facilitated by the privilege (shown in the grant of Alexander II to Melrose in 1265) that when passing through the country with carriages, they might stop one night wherever they chose, and pasture their beasts on the commons, so that they kept them out of cornfields and meadows. ⁴

Specially important for the economic development of Scotland in the Middle Ages, was the production of the staple commodity of medieval commerce, wool. Sheep farming on an extensive scale was due especially to the initiative of the Cistercians. The monks of Newbattle had pasture for a thousand sheep in the lands of Romanno, besides the great

sicut et mihi meas pecunias proprias." (Register of Cupar Abbey, II, Appendix, p.282).

1. Reg. de Neubottle, p.187.

2. Raine, North Durham, Appendix, p.2.

3. Denmylne Charters, 6, quoted Lyon, St. Andrews II, p.305.

4. Morton, Monastic Annals, p.278.(also Lib. de Melros, p.273) ¹/₂

territory of Monkland in Clydesdale, devoted to sheep rearing and linked to the parent monastery by a privilege of 'passage'.¹ The concession of David II to the Cistercian Abbey of Deer of the custom of all the wool grown "within the sheriffdom and parochines of the said abbeey"² has evidently the dual intention of providing protection against competing enterprise and of encouraging the monastery's pursuit of this industry as a means of revenue. So also, that king in 1359 grants to Melrose "totam custumam omnium lanarum suarum tam de propriis bidentibus quam de decimis ecclesiarum suarum qualitercumque proveniencium,"³ a direct form of encouragement to the typical Cistercian industry. The grant of freedom from 'tallagia, averagia aut cariagia,'⁴ rights of passage, exemptions from toll, customs and other duties was widely extended to the monastic lands, making the monasteries under these forms of royal favour, highly privileged centres of industry.

We note other industries due to monastic enterprise. The working of coal was due, in the first instance to the monks of Newbattle, and later to the monks of Dunfermline, who held lands within the present Midlothian coalfield, and originated coal-mining, in the one case at Prestongrange, in the other at Inveresk and Pinkie. Lead-mining⁵ and quarrying were carried out by the monasteries. Saltpans were very frequently part of monastic property, and here also the monks of Newbattle appear as owning a large number.⁶

As the monks were encouraged by privileges for transport and intercommunication in their industrial activities, so in the sphere of commerce they were specially privileged.⁷ The monasteries played a prominent part in the erection and development of the chief centres of trade, the burghs. The burghs of Jedburgh, Paisley, Kelso, Selkirk, Dunfermline and Canongate grew up round the monasteries of their locality. Arbroath, an important trading centre, was made over to the local monastery by royal grant.⁸ The interest of the monks in commerce was fostered by the grant to them of the customs. For example, Robert I granted to Dunfermline, "totam novam magnam custumam

1. Reg. de Newbotle, pref. pp. xxxv-xxxvii.

2. Reg. Mag. Sig. I. Appendix II, p. 639.

3. Lib. de Melros, p. 401. In 1394, the Abbot of Melrose had the right conferred on him of exporting 50 sacks of wool duty free. (Exchq. Rolls, I. Introdn. p. ci. Footnote).

4. Lib. de Melros. p. 400.

5. Reg. de Newbotle, loc. cit.

6. Lawrie, E.S.C., p. 381 gives particulars.

7. Although this was probably against a canon of a Scottish Council. (Patrick, Statutes, p. 15, No. 22.)

8. Exchequer Rolls, I, Introdn. p. lxxx.

nostram de omnibus terris ^{suis} infra regnum nostrum, viz. tam de burgis de Dunfermelyn, Kirkcaldyn, Muskilburg et de passagio Regine quam de omnibus terris suis aliis quibuscumque." ¹

Similarly, the monks of May had "quatuor denarios..... de quatuor retinaculis singularum navium que in portibus suis de Pednewem et de Amesdtroder causa piscandi vel piscem vendendi applicuerint," while they had liberty to sell and buy whatever they needed for their own use throughout the whole land free of all toll or charge. ² Moreover, the grant of a 'cocket' to the monks of Melrose, Arbroath and Dunfermline gave them a special position of privilege as traders; for merchandise liable to custom could not be exported without a cocket, the certificate under the seal of the proper officer that the great custom had been paid on it. The grant of Robert I to Dunfermline (referred to above) included the right to use their own cocket - every burgh of export had its cocket seal - "que quidem koketa cognoscatur et admittatur ab omnibus burgensibus et hominibus nostris et extraneis mercatoribus per totum regnum nostrum sine impedimento." ³ Arbroath had a cocket conferred upon it by David II (1351) ⁴, who also granted to Melrose in 1359, a cocket of two leaves "ad custumandum lanas suas..... pro sue libito voluntatis." ⁵ This, which made the monks their own customs officers, was greatly to their convenience as traders. There is, in this connection, an interesting illustration of the extent of their commercial transactions. In 1322, Robert I made intimation to the burgomasters and the whole community of Bruges that he had given the monks of Dunfermline all the great custom throughout his realm; "quapropter," he says, "universitatem vestram affectuose duximus deprecandam quatinus quocienscunque mercatores vestri flandrie seu alij mercatores cuiuscunque fuerint naciones ad partes vestras cum mercandijs suis accedentes coketam dictorum religiosorum vobis debito modo presentaverint, ipsam tanquam coketam nostram propriam acceptare curetis....." ⁶

The encouragement of monastic markets in the burghs is seen as early as the reign of William the Lion. In his charter (1211-14) confirming his concessions to the Abbey of Arbroath, are these words -

"Dedi et concessi eisdem licenciam et libertatem faciendi burgum et habendi portum et habendi forum unaquaque die Sabbati in eadem terra" ⁷,

while the monks of Kelso are given the privilege by the same king that their men dwelling at Kelso, every day of the week, except

1. Reg. de Dunfermelyn, p.232. These burghs were within the monastery's lands, and the grant of their custom was calculated to make the monastery foster local commerce.

2. Carte Prioratus Insule de May, p.9.

3. Reg. de Dunf. loc. cit.

4. Reg. de Aberbrothoc, II, p.24.

5. Lib. de Melros, p.401.

6. Reg. de Dunfermelyn, p.246.

7. Reg. de Aberbrothoc, I, p.3- .

the statutory day of the king's market in Roxburgh "licenciam habeant vendendi in villa sua focale et materiam et annonam et transeuntes. licenciam habeant eis ista vendendi." There follows elaborate regulations for methods of trading. "Habeant etiam ipsi homines sui licenciam vendendi in fenestris suis panem et serviciam et carnes. Si autem piscem in suis propriis quadrigiis vel equis attulerint et inde vendere voluerint in fenestris suis liceat eis vendere. Quadrige autem aliunde venientes et proinde transeuntes non ibi exhonerent neque ibi vendant sed ad forum meum veniant....."¹

The burghers of Arbroath are set free from tolls or customs throughout all the king's land and all harbours of it in respect of every kind of trade and merchandise which they buy or sell.²

Shipping under monastic ownership is the subject of royal protection and privilege. Alexander II addressed a mandate to the sheriffs, bailies, and 'his other good men' of Caithness and Moray, informing them that he had taken under his firm peace and protection, the ship of the abbot and convent of Scone and their men who are in it, and all their goods which they have in it.³ David I quitclaims the ship of the Abbot of Dunfermline and everything in it of all custom pertaining to him.⁴

It is thus evident that the commercial ventures of the monasteries were fostered by the Crown as an important source of national wealth. We may note one point, however, in regard to their activities as traders. Although they were generally exempt from the demands of 'Inland Revenue', from tolls⁵ and the small customs, payable on articles brought to market in burghs, and in the form of harbour dues on ships arriving in port, only in certain instances were they exempt from the Great Custom, chargeable on free chief exports - wool, woolfells, and hides, and the grant of a cocket did not exempt from, but only facilitated the payment of the Great Custom. Thus a considerable revenue from monastic trading accrued to the Exchequer. In 1365, the Exchequer Rolls yield the following illustrations of income from a monastery's commercial ventures -

"xviij-~~ii~~

"xviij ~~ii~~ vi s viij & provenientibus de custuma viginti sex saccorum lane de Melros, stante custuma sacci ad unam marcam."
"Et de xl s provenientibus de custuma sexcentarum pellium lanutarum de Melros, stante custuma sexies viginti pellium ad dimidiam marcam."⁶

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1. Lib. de Calchou, p.15. 2. Reg. de Aberbrothoc, I, p.3.
 3. Lib. de Scon, p.45. 4. Reg. de Dunfermelyn, p.12.
 5. Their jealous guardianship of this privilege is shown by the case which in 1348, came before William de Meldrum, commissary of the Earl of Ross, justiciar, in which the Abbot of Arbroath accused John de Clackmannan and certain burghesses of Dundee of taking one penny for the king's toll from Colin, son of Nigel, living in their land of Kingoldrum. (Reg. de Aberbrothoc, II, p.21).
 6. Excheq. Rolls, II, p.202.

In addition to their contribution to the national wealth by trade, the religious houses, as a part of their industrial activities, were concerned with the making of mills, and the conservation of water-power for mills throughout the country. David I grants to the canons of Holyrood liberty to make a mill in their lands of Airth.¹ The Cistercians of Newbattle have the privilege of making a millpond in their territory of Carnebruth;² while those of Kinloss had confirmed to them by Robert I, their right of digging a channel to lead the water of Masseth to their monastery,³ presumably for a pond or mill. The monks were given charge of ferries. Dunfermline held Queensferry; Arbroath the ferry of Montrose.⁴ The building of bridges was a feature of monastic enterprise. In 1278, John Cumyn gave to Inchaffray the right of making a bridge on his land, and sustaining it at their expense⁵. The monks of Kelso received from William de Hattley and his spouse the concession -

"in puram et perpetuam elemosinam licenciam et potestatem firmandi construendi et habendi super terram ~~Heam~~ de Meloustan pontem ultra rivulum de Blakeburne ad carandum petas suas et alia bona sua ultra dictum pontem....."⁶

Alexander II gave Kelso a grant of land for the perpetual upkeep of the bridge of Ettrick.⁷

Their remains to be noted the services which are now the work of the State or the Community, which were in this period contributed by the regular clergy. The care of the sick, the infirm and the poor was undertaken by the religious houses. The Priory of St. Andrews held the Hospital of St. Andrews "in susceptione hospitum, pauperum, peregrinorum"⁸ They, likewise, as the chapter of the diocese, made over to the monks of Dunfermline the church of Hailes, whose revenues were to be held in usus proprios for ever, for the support of the poor and pilgrims.⁹ A Bull of Innocent III to Dunfermline mentions a grant to the Hospital of Queensferry belonging to that monastery.¹⁰ So also Coldingham had the leperhouse of Aldecambus on its lands and Dryburgh the Hospital of Lauder.¹¹

1. Lawrie, E.S.C. p.117. 2. Reg. de Neubottle, p.125.

3. Carte Abbacie de Kinlos, p.131.

4. Reg. de Dunfermelyn, p.216; Reg. de Aberbrothoc, I, p.154.

5. Inchaffray Charters, p.99.

6. Lib. de Calchou, p.104. 7. Lib. de Calchou, p.309.

8. Lawrie, E.S.C. p.396.

9. Reg. de Dunfermelyn, p.62. 10. Reg. de Dunfermelyn, p.163.

11. Raine, North Durham, Appendix, p.12; Lib. de Dryburgh, p.267.

The organised charitable work of the religious houses is well illustrated by the grant of Brother Gervase, Abbot of Newbattle, in 1312, who with the consent of his convent, settled forever on the Infirmary of the Abbey, an annual rent of three marks, payable by William Byseth out of the lands of Merton, to be spent for the uses of the sick and the feeble. ¹ A charter of the Abbot of Dunfermline in 1317, illustrates the monastery's care of the poor. The Abbot proclaims their desire "pauperum egenorum inopiam et miseriam nostris de bonis et elemosinis sublevare et adiuvari," and to that end, intimates the appointment of Robert Terwerac as their almoner, to whom mandate is given that all the remains of the food and drink of the novices are to be collected by him and distributed to the poor in the monks' almshouse outside the monastery gate beside St. Catherine's Chapel. ²

A more debatable point is the monastery's part in education. There is general evidence that they assisted in the spread of culture, as shown in the architecture of their abbeys, in the making of manuscripts, the keeping of records. Their precise contribution to the progress of education in Scotland is more difficult to determine. Dowden, ³ McEwen, ⁴ and Edgar observe the sparsity of evidence on this point: again, McEwen and Edgar differ in regard to the extent of the monks' educational activities. Edgar is inclined to give the monasteries credit for a large share of this work. But such a statement as the following is made at random -

"When we mention..... Dunfermline, Kelso, Arbroath, Melrose, Coldingham, Newbattle and Dundrennan, it will be evident that there were at least stately buildings and great endowments consecrated, in part at least, to the cause of Education." ⁵

For, as he proceeds to say, -

"It is unfortunate that the extant Registers of the monasteries do not give us more information about the educational work done within their walls." ⁶

McEwen emphasizes the relatively small number of monasteries that are recorded as having schools, (eight in all) immediately attached to them. Kelso, to which the lady of Molle granted lands for the maintenance of her son among the "maiores et digniores scolares", supplies this likely instance of the existence of a school at the monastery. ⁷ The Franciscans had a school at Dundee. Apart from this, there are records of schools indirectly dependent on the monasteries, situated in their lands or affiliated to their

1. Reg. de Neubottle, p.36.

2. Reg. de Dunfermelyn, p.253. It might be added that nuns carried out work in regard to the care of the sick and infirm. The hospital of St. Leonard at Perth was associated with the Cistercian Nunnery there. (Fittis, Eccl. Annals of Perth, p.277).

3. Chart. of Lindores, Introd. p.lv.

4. Hist. of Church in Scotland, I p.201.

5. Edgar, History of Education in Scotland, p.74.

6. loc. cit.

7. McEwen, I, p.201, from Lib. de Calchou, 173.

churches. Lindores had the right conferred on it, circa 1224, of appointing the masters to the schools of Dundee and its neighbourhood.¹ In a charter of Dunfermline is mentioned a list of churches in the monastery's possession. Two of these have schools attached to them, "ecclesiam de Perth et scolam eiusdem ville..... et ecclesiam de Strivelin et scolam eiusdem ville."² Similarly, the church of Linlithgow in the possession of the canons of St. Andrews had a school attached to it.³

Whether the monasteries were actuated by any zeal for education, whether they were at best taking up the work begun by the Celtic Church, are questions not strictly relevant here. It is enough to show that the religious houses did something to further education in Scotland, and took a share of this work or allowed it to go on under their patronage, along with the secular church and the burghs, under whose auspices schools were maintained. A point of some interest is mentioned by the Editor of the Chartulary of Dryburgh, in regard to the Premonstratensian canons. "There were no schools in the monasteries of this order; but no one ignorant of Latin could be admitted into it."⁴

There were also certain services of a personal kind, which the regular clergy performed towards the Crown. We find them employed as auditors of the accounts of the Exchequer; in 1290, the audit at Scone was conducted by the Abbots of Cupar and Arbroath among others. The Abbot of Dunfermline, in 1329, appears as the depositary of the 'money ordained for the peace' (presumably to assist the royal intercession at the Curia).⁵ For such services of a personal nature, the Mendicant orders were in special request. The house of the Friars Minor in Dundee, notable as their chief house in Scotland, and the scene of the Council of 1310 which recognised Bruce as king, received five marts, in 1342, in return for its occupation at an audit.⁶ Again, the Friars Preachers were in demand for diplomatic services. Two entries attest this in the Exchequer Rolls, for the years 1264-66.

"(Invernes) Expense. Item, in expensis Fratrum Predicatorum euncium in nuncium domini regis versus Norwegiam, xlvij s vij-
vij d." ⁹

"(Wigtoun) Expense etc. Item, in expensis archidiaconi de Mannia et Fratrum Predicatorum euncium per duas vices in nuncium domini regis in Mannia, xxxiij s, ix d." ¹⁰

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1. Lib. de Lundoris, p.17.
 2. Reg. de Dunfermelyn, p.63.
 3. Reg. St. And. p.63.
 4. Reg. de Dryburgh, Pref. p.x.
 5. Exchequer Rolls, I, p.49.
 6. Ibid. p.181.
 7. McEwen, History of Church in Scotland, I, .254.
 8. Exchequer Rolls, I, Introduction, p.lxxix.
 9. Ibid. p.19.
 10. Ibid. p.22.

In 1286, two of the Dominican friars of Perth were sent by the Bishops of St. Andrews and Glasgow, "in their own name and in the name of the clergy, of the earls and barons and of all others of the realm of Scotland," on an important diplomatic mission to England.¹

It is interesting question whether the religious houses ever lent money to the Crown. One entry in the Exchequer Rolls may well bear that interpretation. It occurs under the date, 1329.

"Et abbati de Melros, pro debito regis, xl ~~li~~, per receptum Johannis de Wedal, bursarii."²

Apart from the category of payments in which it is placed (soluciones debitorum), this payment, which is indicated as 'pro debito', is thus distinguished from payments 'ex dono' or 'ex elemosina regis.' Further, the Exchequer Rolls do not indicate this as a payment made for supplies to the Crown; and in cases where such payment is made, the article or service paid for is usually indicated.³ There is thus reason to believe, in the absence of contrary evidence, that the forty pounds paid by the Exchequer to Melrose, was the refund of a loan to the Crown.

1. Documents Illust. of Hist. of Scotland, I, pp.xxxvii, 4.

2. Excheq. Rolls, I, p.211.

3. E.g. "In solucione facta abbati de Kynloss, pro lana recepta ad opus regis ut patet per literas ut supra, v ~~li~~." (Exch. Rolls, II, p.168).

Chapter VII.

A feudal state was, in one sense, a paradox. Centralized in the Crown, it was also decentralized into separate and local units of authority. The barons, holding land from the Sovereign and owing him feudal services accordingly, were empowered to assert a limited but real authority in their own territories, in such a matter as the administration of justice (*fossa et furca*), and the collection of local revenues (*toll et them*). Their position was indeed that of petty rulers over their several manors, and at their disposal was an armed force of vassals. Thus, the feudal state, by intention unified in allegiance to the Crown, and organised to maintain the authority of the Sovereign by a system of dependence and responsibility, was by its very nature liable to dangerous rupture. The authority of the Crown could be menaced by a baron or an association of barons, strong enough to resist not only the force of civil law but the military force at the Crown's disposal. In England, the Barons' War of 1258-1265 illustrates the rift which could arise in the State, when the barons, no longer subordinated to royal authority, could combine to oppose it. The history of medieval Scotland has examples of insurgent barons, representing the great Houses which from time to time were in opposition to the Crown, in the Lords of the Isles, and the House of Douglas. The rebellions in outlying provinces, as, for instance, in Galloway and Moray in the reign of William the Lion, were due to disaffected lords, who had secured for themselves virtual independence of the Crown.

The Scottish kingdom, however, included a 'third estate' which formed a constituent part of the feudal fabric. The Church, depending on the king's patronage, had its magnates, the bishops and abbots, peers of the lay barons, who shared with them in the councils of the realm.

Within the Church existed per se the monastic organisation. The monasteries had a place by themselves in the Church: so also they had a special place in the Feudal System.

(1.) They were like the barons in holding lands from the king, with the implicit privileges of jurisdiction, revenue, vassalage.¹

(2.) They were unlike the barons, in their form of tenure and its responsibilities. By holding lands in frankalmoigne, they were freed from the responsibility of military service and other feudal obligations.

The position of the religious houses in the State was thus

1. Cf. Robert I's confirmation of his grant of the land and holding of Lesswedynne to Melrose, "*cum serviciis liberetenencium et nativis hominibus dicte terre debitis et consuetis*". (Lib. de Melros, I, p.380.)

somewhat anomalous, They were within the Feudal System, obtaining its benefits, but not fulfilling its obligations; exercising baronial functions which were, strictly speaking, inconsistent with the profession of the religious life; existing alongside the baronage, as a series of self-enclosed corporations, hedged in by exemptions and privileges, and protected from aggressors, on the one hand by the special favour of the Crown, on the other, by their power to invoke excommunication on invaders of their rights.

The strength of the Crown's authority depended on the allegiance of the barons. They were, in an important sense, its deputies within their own lands, upholding law and order among those who were at once their vassals and the king's subjects. But it would appear that the tie of feudal fealty was not always enough to bind the barons to the Crown: and the security of the king, as the sovereign power in the realm, would have been at the mercy

of his tenants, had he had no means of checking their usurpations, when his aims and theirs were opposed. In this respect, the monasteries were useful to the Crown. They could assist in maintaining the balance of power in the feudal state. If the Crown could secure their help or even their abstention from interference, when the authority of the Crown was disputed or defied by the barons, it had secured to itself an important ally. The extent of land held by the monasteries gave them a potent influence in this respect. Their vassals were freed from military service for the Crown, except when in certain cases, they were liable for the "aid of the king when he imposes a common aid on the whole realm."¹ Thus, while their men were set free from service on the king's behalf, except in cases of national emergency, they were also secured from service against the king, in a period of civil war, as long as the king was able to conciliate the religious houses. The lands of the monasteries were to be reckoned, from the point of view of the Crown, loyal.

Their place in the Feudal System brought them into relations with the barons and other landowners. What was the attitude of these towards the religious houses? Where the barons were at one with the king, employed as his officials (Justiciar, Steward, or Sheriff), where they were the recipients of royal favour, where their interests were also the interests of the Crown, they are usually found as the founders and patrons of monasteries, exercising towards them favour and protection like the king. This is true, especially, of the Anglo-Norman barons. Roland, son of Uchtred, the insurgent lords of Galloway, had become at the king's court, "a Scoto-Norman more than a Galwegian," and had married the daughter of Richard de

¹ L. Inchaffray Charters, p.194: so also, Malcolm, Earl of Atholl, gives the church of Moulin and its pertinents to Dunfermline, 'excepto communi auxilio regis.' (Reg. de Dunf. p.85.)

Moreville, Constable of Scotland. William the Lion, in 1185, made him, as an ally, lord of Galloway, and he is mentioned as Justiciar and Constable between 1189 and 1198. In 1190 or 1192, he founded the Abbey of Glenluce. Paisley owed its origin and continued patronage to the family which held the hereditary Stewardship of Scotland. Apart from these, certain noble families and individual nobles appear as founders and patrons of religious houses. Conspicuous among these are the successive Earls of Strathearn, patrons of Inchaffray.¹ Coldingham, although it suffered at a later time from spoliation on the part of the Humes, had a considerable list of lay patrons.²

It is important to notice the terms on which lands were granted to the religious houses by the secular landowners. To transfer land to another's ownership was nominally to transfer with it the responsibility for services accruing from it to the Crown. Chief among these was military service. In the case of lands granted to the monasteries, the grantee was accustomed in many instances to undertake the military service due from the monastery. To cite again an instance from Inchaffray, - Gilbert, Earl of Strathearn, between the years 1210-18, giving the canons Balmakgillon in frankalmoigne, undertakes that he and his heirs will perform the forinsec service of the king due from the land.³ So also, in 1261, Robert Bruce, lord of Annandale, giving Williams-town in Garioch to Lindores, states in his charter -

"Adquietabimus in perpetuum ad omni seculari auxilio et exercitu, et ab omni alio servicio, servitute, exactione, et demanda seculari,"⁴

indicating thereby that he will perform the requisite service in their stead.

Sometimes this assumption of services due from the monastery was not entirely unconditional. Roger de Quincy, Earl of Winton, confirms to the canons of Scone, a donation of William de Len, "except the hosting, which we remit from the abbot and convent in regard to that land." Thereafter, the charter proceeds -

"Reddendo inde nobis et heredibus nostris annuatim dimidiam marcam argenti..... pro omni servicio et consuetudine et demanda salvo iure cuiuslibet."⁵

1. Cf. the terms of a charter of Robert, son of Gilbert, Earl of Strathearn, (1221-3) who "has pledged his faith...that he would never in the whole of his life unjustly harass innocent, Abbot of Inchaffray or the convent but rather treat them as his ^{most} special friends, and saving his own rights and honour, would as far as he could increase the house... Moreover, if they suffer from robbery, theft or injury, he will, as patron of the house, prosecute their rights as he would his own..." (Inchaffray Charters, p.193).

2. E.g. In 1371, William, Earl of Douglas, granted that the itinerant Justiciars are not to be quartered at Coldingham, except ex gratia. (Raine, North Durham, Appendix, p.34.)

3. Inchaffray Charters, p.188. 4. Chart. of Lindores, p.146.

5. Lib. de Scon, pp.48-49.

This is evidently an example of scutage or commutation of services for the payment of a sum of money, which is nominal, for the monastery is to hold the land 'libere, honorifice, quiete.'

The point of this assumption of military service due from the monastery seems clear. As the confirmation of baronial grants to monasteries by the Crown indicates the recognition of the king as Overlord, so also the undertaking of feudal service on the monks' behalf was a recognition that the Crown alone could set lands free from this burden.

Other points of contact between the monasteries and the lay landowners may be noted. Two instances will show that sometimes the privilege granted to the monastery was unconditional; at other times, it was given with some 'recognition' from the monks, or with reservations in favour of the donor. The case of mills will show this. The religious houses frequently obtained access to mills or possession of them as grants ~~of~~ from benefactors, and were thus relieved of the payment of multure to the owner of the mill. Nesus de Lundre confirms the grant of the mill of Linton to the canons of Holyrood, so that none of his men can have grain ground at the canons' mill, without permission of the canons' miller, who is to grind only the canons' grain.¹ On the other hand, between the years 1202 and 1204, Alan, son of Walter, the founder of Paisley, confirms to that house his mill of Paisley, with suit thereof, in fee farm (not frankalmoigne), at a yearly reddendo of four chalders of flour and four and half of meal.²

Again, in regard to the jurisdiction of the monasteries, the attitude of the barons and other landowners varied. Gilbert, Earl of Strathearn, in regard to Inchaffray (1203-4), assisted the canons to administer justice by putting his bailies, seneschal and deemster at the service of the canons; ³ when the monastery's men are condemned in his court, the criminal's body shall be left to the earl, 'so as to preserve the rights of our court', but his chattels shall belong to the canons, and likewise any pecuniary fines inflicted on their men.⁴ A similar arrangement appears in a charter given to Melrose, in 1266, by Alexander, son of Walter, Steward of Scotland. The same intention of saving the rights of the grantee's court is evident in an undated grant of Walderus de Stratheiham to the Priory of St. Andrews, "of the whole land of Blaregerog, with the right of hunting in his fields and woods. " If Capital offences arise on his lands between his people and those of the Priory, they shall be debated in his court and not in that of the Priory, yet without prejudice to the

1. Lib. Sce. Crucis, p.51.

2. Reg. de Passelet, p.13.

3. Inchaffray Charters, p.272.

4. Ibid. p.186.

latter's emoluments,¹

In the above cases, there is no hostility manifested to the religious houses. The barons are simply intent on maintaining their own rights, while making benefactions to the monastery. A more definite form of control by a baronial patron is seen in regard to the appointment of the abbot of certain houses. The foundation-charter of Paisley (ante 1163), by Walter, son of Alan, the Steward of Scotland, declares-

"Et prior qui de illis xiiij (monachis) predicti domui regende preficietur, per me et per meum consilium eligetur, et si contingat ipsum priorem vel per mortem vel per criminalem prevaricationem a prioratu suo deponi, per me et meum consilium deponetur, et qui ei in prioratum prefatum succedet per me et per meum consilium eligetur et hoc de fratribus ipsius domus quam fundabo, si in ea inveniri potuit persona discreta et ~~conveniens~~ ad dignitatem talem suscipiendam; sin autem de fratribus predictae domus de Wenloc quemcunque voluero, excepto Priore ipso, eligam ad regendam domum quam statuam; et ita quod domus illa non erit respiciens de ulla re ad domum de Wenloc, nisi tantummodo de recognitione ordinis..."²

In this charter, is shown the founder's desire to treat the new monastery **after** the fashion of an ordinary benefice, of which he has the patronage. His claim to appoint or dismiss the prior, even allowing for his consultation of the monks in an appointment, is directly opposed to the immunity of religious houses (frequently mentioned in papal bulls) from secular interference in the election of the head of their house. It is not surprising to discover that about the year 1220, a compromise had been reached. Walter, son of Alan, Steward of Scotland, at that time grants to the monks of Paisley "the free and canonical election of an abbot or prior... saving to me and my heirs the right of patronatus which ought to pertain to me and my heirs by canon law."³ The monks had secured their characteristic privilege, and the patronage of the baron had become formal, perhaps a matter of formal consent to the monastery's appointment.

There is a similar instance, about the year 1200, in the case of Inchaffray, where it is laid down that no one be promoted to the rule of that place, unless he had been chosen by the common consent of the brethren, and by the assent of the earl and his heirs. The Bishop of Dunblane interpreted this to mean that the assent of the earl was necessary in electing a head of this religious house.⁴

1. Reg. St. And. p.276.

2. Reg. de Passelet, p.1.

3. Ibid.

4. Inchaffray Charters, p.10, p.267.

It is worth noting that a charter of Robert Bruce, given between 1316 and 1320 to Robert the Steward, with reference to the holding of the lands of Cunningham, mentions as one of the functions of a holder of land in barony, 'the advowsons of Churches, the patronages (patronatibus) of abbeys.'¹ This statement makes a differentiation which may assist us to determine the position of the feudal lords to the appointment of heads of religious houses, and indeed to the monasteries in general. The holding of the advowson of a parish church meant that the lord of the manor had the disposal of its revenues, could bestow them at his discretion, and alienate them, if he pleased: whereas, their claim over the religious houses was more modified. Their revenues were inalienable **Only** in respect of the appointment of the head of the house which administered them had the patron the formal right of giving his assent, which was not an assertion of feudal superiority, but the recognition of the monastery's indebtedness to a benefactor.

But although the manorial lords are found as patrons of the monasteries, exercising the functions of a protector and benefactor, there is another aspect of the relations of the religious houses and the secular landowners. While certain of the feudal lords took up towards them an attitude of guarded benevolence, there is ample evidence that others regarded them with suspicion, as highly privileged rivals. War is perhaps the best instance of the divergence of outlook between the monastic and lay landowners. The feudal organisation of society was arranged to meet the State's need of armed men for military service, and thus the holding of land had as its condition the supply of men for the king's host. War was the raison d'être of the manorial lord. In it, they fulfilled the function for which they were prepared and qualified; whereas, war was against the interests of the religious houses. Their organisation was devised to further the arts of peace; and in a time of war, they were the prey of the invader, defenceless despite their sanctity against spoliation and violence. In their relations with the feudal lords was latent this antagonism of function.

Dowden² has pointed out that the Scottish earls North of the Forth do not seem to have been much affected by the wave of religious zeal which was distinctly of Anglo-Norman origin, and brought about settlements of English monks in Scotland. "The castles of Anglo-Norman laymen seemed to have their counterpart in the monasteries garrisoned with monks from south of Scotland. After a generation or two," he adds, "the feeling of distrust wore off." But there is little doubt that the instinctive jealousy of the lay landowners towards their highly privileged and intruding rivals remained, despite the patronage extended to the monasteries by some of their number, and found vent from time to time in acts

1. Reg. Mag. Sig. I, p.15. The words occur thus; "Habendas.... in liberam baroniam, cum furca et fossa, sok et sak, tol et theme et infangthefe, et cum advocacionibus ecclesiarum, patronatibus abbathiarum.

2. Chart. of Lindores, Introd. p.xv.

of spoliation and encroachment upon the privileges and properties of the monks. The frequently occurring clauses of protection against spoliators in papal bulls and royal charters are a witness to this danger which threatened the religious houses. The attitude of many of the lords towards the monasteries found its full expression at the Reformation when the restraint of excommunication and royal protection was removed, and they were able to appropriate the coveted lands of the monks. But as early as 1128, the Register of St. Andrews yields the instance of a certain Sir Robert Burgonensis, against whom the monks of St. Serf's island asserted in the presence of David I, that he sought "fervore suae rapacitatis et infrenatae tyrannidis ab eis auferre quartam partem de Kyrkenes."¹

The encroachments of the laity may be classed generally as overt and covert. Of the first type were the withholding of tithes payable in respect of parish churches appropriated to the monasteries and interference with or hindrance of the monks in utilizing their privileges. Malcolm IV gives an important concession to the canons of Scone, when he makes known to the Earl of Angus, and the Sheriffs of Forfar and Scone, that he has given the Abbot of Scone privilege to collect 'aids' from his revenues by his own servants, and warns these lords against entering the lands of Scone to collect these aids. The monks were frequently engaged in litigation over the possession of lands of which their ownership was disputed. In or about 1233, the Abbot and Convent of Paisley institute a process against Gilbert, the son of Samuel of Renfrew, over land which they declare "belongs of right to their church of Kilpatrick and is unlawfully alienated to Gilbert."³ In 1341, the canons of Scone, having complained that the Sheriff and bailies of Perth, disregarding their immunity from suit of court, and from various exactions, have distrained them and their lands for these burdens, seek and obtain redress, from two ecclesiastical auditors appointed by the Crown.⁴ Other forms of encroachment upon their rights and privileges may be mentioned. Fortified by papal bulls, they claimed exemption from appearance in secular courts of justice,⁵ without allowing a reciprocal privilege on the part of laymen, who, in matters concerning the monks, were liable to be haled before ecclesiastical judges or summoned to the Curia.⁶ Further, in respect of homage, as an acknowledgement of feudal superiority, their attitude was similar. They are found receiving homage for lands and other holdings, e.g. in 1316, -

1. Reg. St. And., quoted Lawrie, E.S.C. p.66. 2. Lib. de Scon, p.13.

3. Reg. de Passelet, p.169. 4. Lib. de Scon, p.125.

5. Cf. Bull of Innocent V to Scone, "Duximus indulgendum ut super terris et aliis bonis ecclesie ipsorum que ad forum ecclesiasticum pertinere noscuntur ad respondendum vel litigandum in curia seculari contra fori clericalis privilegium aliquatenus compelli non possint." (Lib. de Scon, p.75).

6. Cf. Reg. de Passelet, pp. 169-170.

"Duncanus Comes de Fyfe.... in monasterio de Dunfermelyn coram magno altari fecit homagium et fidelitatem domino Roberto de Karal tunc abbati monasterii predicti pro terra de Cluny in fyf quam predictus comes de predictis abbati et monasterio tenet in capite in presencia dominorum prioris et conventus...."¹

But on the other hand, the dealings of Lindores with the Earl of Mar show their resistance to any attempt to assert feudal superiority over them, in the matter of jurisdiction and homage. David II, in 1357 asserts after an inspection of their charters, that "the monks, their monastery, their men, lands and possessions their goods and other rights were under the patronage... of the Kings of Scotland, with no intermediary... Wherefore he strictly forbids the Earl of Mar ... to molest or disturb the monks and their possessions, by reason of or under pretext of any gift or grant made or to be made in any way by him, or to raise any question in law against the will and intention of the royal majesty, to the no small prejudice and grievance of the king's state, "and this on penalty of full forfeiture. Accordingly, in 1359, Thomas, Earl of Mar and Lord of Carrioch, makes known that though he has claimed from the monks of Lindores, homage, fealty, and suits and compearance in his courts, as from the other freeholders of the Carrioch, by reason of the lands held by the monks in that district, he now acknowledges that they are under no obligation to render these services.³

A covert type of encroachment arises out of the leases of land granted to barons or knights by the religious houses. Lands might be made over to the laity in this manner, under the stress of poverty, the need for protection, under compulsion, by mutual arrangement or in return for some service rendered. In regard to leases, various difficulties could arise. Long leases deprived the monastery of the use and revenue of the lands concerned, were liable to lead to disputes about ownership and lands so leased were difficult to reclaim. Scottish Councils, legislating on the leasing of churches, laid down the principle which illustrates the cardinal difficulty of leases in general.- leases are not to be made for long periods, even to churchmen, "because of the lapse of time which is wont to bring risk."⁴ The alienation of lands through long leases is a grievance for which the monks seek remedy from king and pope. Thus, David II is brought to the rescue of the religious of Lindores, who find themselves impoverished "by the very many perils of the wars, unbearable pensions and leases of the lands granted... by certain abbots.. to the no small danger of the monastery itself and the hurt of its alms,

1. Reg. de Dunfermelyn, p.236.

2. Chart. of Lindores, p.198.

3. Ibid. p.199.

4. Patrick, Statutes, p.14.

so that the revenues of the same monastery can scarcely suffice for the maintenance of the monks," and all such burdens are revoked by royal warrant to the Chancellor. ¹ Innocent IV, in 1250, issued an inhibition to the monks of Dunfermline "contra feudatories," in which it is stated -

"Ex parte vestra fuit propositum coram nobis quod nonnulli clerici et laici terras domos prata possessiones et alia que a vobis et monasterio vestro tenent in feudum vel sub annuo censu seu redditu, sine vestro assensu vendere dare personis ecclesiasticis et aliis ac alias alienare quibusdam ex eisdem possessionibus novos census et servitutes alias imponere temeritate propria non verentur in vestrum et ipsius monasterij preiudicium et gravamen. Quare.... districtius inhibemus ne ab aliquibus de cetero talia attemptentur...."²

The question may now be asked: How did the monks deal with the danger of encroachment on injury by the lay landowners? They could employ three methods -

(1.) Compromise or conciliation.

In 1312, the monastery of Arbroath sought from Rayner, son of Alan, sixty-six pounds for the tithes of the churches of Banff and Aberchirder, and twenty pounds for the tithes of Cythves, these sums being in arrears, Rayner alleging that the tithes had been completely destroyed by war and otherwise. A compromise was arranged that besides certain payments, Rayner would become steward of the monastery's lands from Collieston to the river Ness, defending the lands and men of the monastery, holding its courts and securing its liberties, in return for which he would receive yearly 'unam robam honestam' and his expenses. ³ The best examples of conciliation are outside the period of this discussion, viz. the appointment of Archibald, Earl of Douglas, as 'sovereign balze and governour of the Lordship and landes of the house and baronye of Coldingham,' in 1414, ⁴ and later, appointments of members of the troublesome family of Hume to that office. ⁵

(2.) The use of ecclesiastical censures.

This is the method of defence which papal bulls conferred upon them. Thus the bull of Alexander III to Dryburgh, in 1161, declares - "Mandamus atque precipimus quatinus illos qui possessiones vel res seu domos predictorum fratrorum irreverenter invaserunt aut ea injuste detinuerunt que predictis fratribus ex testamento decedentium relinquuntur... si layicus fuerit publice candelis accensis singuli vestrum in diocesibus et ecclesiis vestris excommunicationis

1. Chart. of Lindores, p.174.

2. Reg. de Dunfermline, p.184.

3. Reg. de Aberbrothoc, I, p.285 foll.

4. Priory of Coldingham (Surtees Socy.) p.86.

5. Ibid. p.102. Foll. For further conciliatory dealings of monks and landowners, see under Part II, 'Monks and Chapels'.

sententia percellatis...." ¹

There are indications that excommunication was an effective ² weapon of defence for the monks. Walter de fforgrund (about 1147) is a party to a transaction with the monastery of Kelso, in regard to a grant of land and a concession of forty pounds towards the upkeep of the church of Kelso, submitting himself and his heirs to any ecclesiastical judge whom the religious may appoint so that he and his heirs without warning or information but only on the production of this charter, may be compelled by sentence of excommunication or interdict to observe the stipulations made. ³ Likewise, a series of charters in the Register of Paisley point to the use of ecclesiastical compulsion against landowners who detained lands belonging to the monastery, the monks' action being taken on the strength of a papal bull of 1233. ⁴ The real terror of excommunication would appear to arise from the social stigma it conferred, as well as the consequent denial of the rites of the church. Dowden has noted that excommunicate persons were denied the ordinary rights of citizens in the civil tribunals. ⁵ When the Church obtained the aid of the secular arm to enforce its censures, excommunication became a formidable punishment.

(3.) Invoking the aid of the Crown.

In 1242, a Provincial Council at Perth, dealt with the redress of grievances sustained by the clergy at the instance of knights and barons. Alexander II, who was present at the Council, along with his earls and barons, forbade, under severe penalties, everyone of whatsoever degree, knight or baron, in any way to infringe the liberty of the Church, or to wrong or trouble churchmen in their persons or rents. The royal injunction is said to have secured the prosperity of the Church during the remaining years of the King's reign. ⁶ These encroachments, as Robertson has pointed out, continued in the minority of Alexander III, and Parliament in 1250 decreed that the Church should continue in the peaceful possession of rights and immunities granted by Alexander II. The Bishops complained once more to the king of usurpation of Church property by his counsellors, and on complaints being made to the Pope, Robert Grossetête and others were ordered to examine the alleged

1. Lib. de Dryburgh, p.202. A more usual form is that given in Reg. St. And. (Lawrie, E.S.C. p.130) in a Bull of Lucius II: "Decrevimus vero ut nulli omnino hominum liceat prefatam ecclesiam perturbare aut ejus possessiones seu bona vestra auferre, vel ablatas retinere, minuere aut aliquibus vexationibus fatigare sed omnia integra conservantur etc."

2. Although Coulton says: "In the early Church to deprive a man of the Sacraments might be more terrifying than to take his very life; but such excommunication had gradually lost most of its terrors." (Five Centuries of Religion, II, p.333). 3. Lib. de Calchou, p.30.
4. Reg. de Passelet, p.164 onwards. 5. Medieval Church, p.305.
6. Abstract of Fordun, Scotichronicon, lib. ix, cap. 59, given by Robertson, Statuta, I, Pref. p.lxx.

grievances.¹ This conspicuous instance of the Church seeking royal protection against encroachments arose, it appears, from both secular and regular clergy, and the bishops who voiced the complaint of the Church to Alexander III, found an example (the only one specified) in the despoiling of the Prior of St. Andrews. Their mandate declares -

"Now something new and.... unheard of in the realm of Scotland has been brought in by your councillors: to wit, that ecclesiastical persons should, without the intervention of any judicial cognition on the part of their prelates, be despoiled by laymen of the possession² bestowed on their churches in alms as we understand has lately occurred in the case of the Prior of St. Andrews...." ²

Theiner yields no indication of the nature of this encroachment. For our present purpose, it is enough to note the encroachment of the laity at a time when the authority of the Crown was wanting (during a royal minority) and the appeal to the Crown subsequently for protection. Similar instances are found in the reign of David II, who, in 1359 (shortly after his release) is found communicating to his justiciars and other officials an inhibition, since the royal 'coronatores' and others had taken fees (feoda) to the loss of the monks, in the lands of the monastery of Arbroath, that henceforth they are to refrain from any such infringement of the monastery's exemptions, as holding its lands in free regality.³ So also he defends the monks of Paisley, in 1363, from the exactions of the Sheriff of Dumbarton. ⁴ Here also, the indication seems to be that the king, rectifying, at the instance of the monasteries, infractions of their privileges while the protection of the Crown had been absent in the state.

What bearing have the foregoing facts on the relations of the monasteries and the Crown? First of all, the danger of encroachment on the part of lay landowners made the protection of the Crown of considerable moment to the religious houses. In Scotland, as in France ⁵ at an earlier period, the absence of a strong central authority in the state placed the monasteries in an invidious position of dependence on the barons and knights, who were more likely to act from self-regarding motives towards their privileged rivals

1. Robertson, Statuta, I, Pref. p.lxi.

2. Patrick, Statutes, p.211.

3. Reg. de Aberbrothoc, II, p.27. 4. Reg. de Passelet, p.177.

5. "La société religieuse n'a d'appui efficace que dans le secours du comte ou du duc qui gouverne le pays, C'est près de lui se réfugient les moines et les clercs; c'est dans l'officier royale que l'Eglise s'habitue à voir le protecteur permanent qu'elle ne trouve plus dans le roi." (I. de la Tour, Les Elections Episcopales, p.280, speaking of the ninth century).

than from motives of piety. Envy, as Imbart de la Tour remarks, is stronger than canon law. 1 Scotland had no such interregnums of anarchy as France of the ninth Century, but the Crown, pursuing a policy which affected the whole State, and thus treating the monasteries as a national factor, was more likely to extend to them a generous patronage than the nobles of knights, whose interests were manorial rather than national, and thus antagonistic to a rival landowning organisation. From the point of view of the Crown, the need for protection against aggression increased the monasteries' dependence on royal favour, and gave the king a greater measure of control over the religious houses.

From another point of view, the monks could assist in maintaining the equipoise of the State, as an offset to ambitious barons. It was in the king's interest that they should not be cowed by dependence on the nobility or knights for justice and the integrity of their possessions, but rather given powers of jurisdiction and authority which would enable them to be free from humiliating obligations. They could thus maintain order and assist the administration of royal justice. But over and above this, their powers of invoking ecclesiastical censures upon invaders of their privileges was a means of strengthening their position as independent corporations acting as a check on the laity. Although these were by no means always an efficient protection, they were undoubtedly a way of humbling aggressive laymen. That the Crown did use the religious houses to maintain the balance of power within the State is indicated by the conscious and deliberate aim of endowing them and establishing them within the feudal system. If the Crown had not approved of the implications of their position as co-existing landowners with the laity, it is unlikely that they would have been fostered or allowed to exist side by side with those who were ostensibly the dependents of the Crown, but who could be on occasion a menace to its authority.

1. Imbart de la Tour, Les Elections Episcopales, p.280.

Chapter VIII.

So far has been indicated the extent to which the religious houses could and did help the Crown, directly and indirectly, by providing an instrument that the king could use to further his aims as head of the Scottish state, by contributing certain vital services towards the national wellbeing, by serving as a foil against the lay magnates of the realm. The further question now is: To what extent were the regular clergy a hindrance to the political aims of the Crown?

In general it may be said that the advantages they brought into the Scottish state were mitigated to a great extent by the disadvantage and loss which ensued from their incongruous position within it, from the lavish grants, privileges and exemptions they received. Grants in frankalmoigne, ostensibly due to the pious intentions of the donor were not always so disinterested as they appeared to be. So also the monastic attitude to the Crown was not simple dependence on a generous patron and protector, providing^{ing} with revenues, safeguarding their use of these, and securing to them the practice of the religious life in detachment from secular affairs. As the Crown used them to further its ends, so they in turn made use of the Crown. Their interests, which went beyond the observance of a rule, ordered their attitude to the sovereign. The relations of the Crown and the monasteries were ultimately the dealings of the supreme authority in the State with an anomalous organisation within the realm, which from its peculiar character demanded diplomacy and compromise. In so far as the Crown and the monasteries found common ground on matters of vital import to both, their relations were liable to be mutually beneficial. But beyond these points of contact, the organisation of the State and the organisation of the Monastic Movement sought divergent and incompatible aims.

Although the religious houses did something to maintain a balance within the feudal state, they were nevertheless a decentralizing influence different in kind from the secular barons, and a menace to the unity and integrity of the State. Their position as 'a State within a State' was accentuated by the very privileges conferred on them by the Crown - the Crown, in fostering the regulars for its own ends, was at the time acting against its own interests. For the privileges conferred on the religious houses increased their independence but did not increase their direct contributions towards the wellbeing of the State, nor in most cases made them waive their position of aloofness from secular responsibility. On the other hand, by these privileges, they were enabled to maintain themselves as self-enclosed corporations, organised within themselves under the internal control of the abbot, the external control of the heads of their orders and ultimately of the Papacy. Despite the Crown's favour to them, they were by their very nature a denial of national unity. They owned no absolute obligations to the secular state, although they accepted its benefits. Their

allegiance transcended national boundaries and had as its ultimate object the Pope, who, whether his political claims over the Crown of Scotland were accepted or defied, stood for an intrusive influence in the designs of the Scottish monarchy. A feudal state could brook no divided allegiance, far less allegiance to an external authority claiming a dispensing power over the head of the community. The menace to the integrity of the sovereign state (in which the ruler was not the viceregent of heaven but the supreme secular authority executing the people's will) was a feature of Monasticism which made it useless to Scotland after the Reformation and doomed with the advent of Protestantism.

Further, Monasticism was a menace to the State by its holding of land in mortuam manum. This was recognized in England, and gave rise in 1279 to Edward I's Statute of Mortmain. By falling into the 'dead hand' of the Church, land no longer rendered its normal feudal service. The Statute of Mortmain forbade the alienation of land to the Church in a manner that would withhold it from rendering service to the Crown, and signified an attempt on the part of the English Crown to prevent national property from avoiding national burdens. No such explicit antagonism to the alienation of land to the Church appears in Scotland. But the problem indicated by the English Statute was present on Scottish soil. Not only the monasteries but their tenants were exempted from feudal services, with consequent loss to the State and weakening of its resources. That Scottish kings should grant exemptions from military service, even in time of national danger, ¹ is a testimony to the king's anxiety for the goodwill of the monasteries. But no less noteworthy is the fact that most of the benefactions of the religious were made before the time of Robert Bruce. From his time onwards, the lavish endowment of the monasteries gave place, in a large degree, to the administration of the properties previously conferred upon them. The inference would thus appear to be that the experience of a national crisis made plain the danger of impoverishing the military resources of the State by the alienation of land to the religious houses.

In other respects they menaced the authority and supremacy of the Crown by escaping the incidence of civil and criminal law. This is shown in their exemption, under certain circumstances, from the payment of debt. Gregory X, for example declared to the religious of Dunfermline -

"Vobis ut ad solutionem debitorum huiusmodi minime teneamini nec compelli possitis nisi creditores eorum legitime probaverint eadem conversa^{fulsa} in utilitatem monasterij memorati: nec ad solvendum quicquam eisdem creditoribus ultra fortem auctoritate presentium indulgemus non obstantibus quibuscunque obligationibus renunciacionibus seu iuramentis prestitis, aut penis apposis in contractibus

1. Cf. the case of Bruce and Kinloss, supra p.21.

super debitis supradictis...."1

They claimed entire exemption from secular justice and "could not be compelled to be respondents or litigants in a secular court," a virtual denial of any responsibility as subjects of the Crown. The privilege, arising out of the Lateran Council of 1215, that they could not be taken two days' journey from the monastery assisted their independence of secular justice. Theiner gives an instance in which a monk of Dunfermline used this exemption as a plea for his non-compearance in a suit concerning the monastery and a knight,³ Grants of jurisdiction within their own territories were not entirely in the interests of the State. There are instances where the reservation of 'justicia regalis' is a check on their independent authority. David I made a significant provision in his confirmation to Dunfermline of their lands and privileges (circa 1128)-

"Omnia autem dona predicta ita liberaliter et quiete prefate ecclesie concedo....defensione regni^{mei}, excepta et justicia regali si Abbas in curia sua aliqua negligentia de justitia deciderit." 4

So also the same king, in 1147, adds the saving clause to his grant of privileges to the canons of Cambuskenneth,

"Salva.... justicia regali si prelatus aliquo impulsu a justicia exorbitaverit." 5

The reservation of a right of appeal to the king's court was clearly an attempt to keep the judicial powers of the monasteries subordinated to the supremacy of the Crown.

While the monasteries created wealth by the development of industry and commerce, they were also a continual drain on the national resources. The Exchequer Rolls yield many examples. The sources of royal revenue are enumerated in the Preface to Volume I of the Rolls: "The ordinary sources of the royal revenue may be described generally as consisting of the rents of the Crown lands, with the payments due from thanages, the casualties of ward, marriage, relief and non-entry, exigible from time to time from the Crown vassals, the fines imposed by the Justiciary and sheriffs, the escheats of attained persons, the fermes or mailles of the royal burghs, and the customs on merchandise, with occasional compositions for letters of gift, remissions and legitimations, and the castle wards."⁶ Not only were some of these inapplicable to the monasteries, some inexigible by special exemptions; the revenue derived from many of these sources had as a first claim upon it the grants made to the religious houses. This may be

1. Reg. de Dunfermelyn, p.169.

2. Lib. de Scon, p.75.

3. Vet. Mon. Hib. et Scot., p.14.

4. Lawrie, E.S.C. p.62.

5. Ibid. p.141 Lawrie notes that 'prelatus' is used here for 'abbas.'

6. Exchequer Rolls, I, Introd. p.xxxiv.

shown from the fermes of the burghs, e.g. £100 was awarded to Melrose out of the fermes and customs of Berwick, on in the event of their failure, from those of Edinburgh and Haddington,¹ Dunfermline, Kelso, Melrose, Newbattle, Dryburgh, Scone, Cambuskenneth, St. Andrews, May and Southberwick, Restennet, Manuel figure as recipients of grants from burghal revenues;² and prominent among the payments made from the revenues of the Crown, as shown by the Exchequer accounts, are annual grants to the Friars from the rents of the towns in which they had houses - the Dominicans at Perth, Aberdeen, Edinburgh, Ayr, Inverness and Stirling; the Franciscans at Dumfries and Dundee; the Carmelites at Aberdeen, Perth and Berwick.³ The latter town paid no less than £125-6-8 of its fermes to religious houses,⁴ Other entries in the Rolls indicate the dependence of the religious on the Exchequer for the payment of miscellaneous sums. In 1331, the Vicar General of the Friars Minor is paid 66/8, for his expenses at the General Chapter of the order;⁵ and in the succeeding year, a similar sum is paid for the stipends of two chaplains for Queensferry, "who should be supplied by the Abbot of Dunfermline and were not."⁶

The grants paid to religious were an unmitigated burden on the Exchequer, from which it derived no direct return. There is evidence that in the year 1367, steps were taken towards retrenchment, by the suspension of certain obligations to religious houses. The donation of 20 merks to the Friars Minor of Berwick was withdrawn.⁷ Likewise, an entry in the Exchequer Rolls indicates the discontinuance of a payment to Restenner, in 1367:

"In solutione facta priori de Restinot, de pensione quam percipere consuevit de custuma de Dunde, de termino Sancti Johannis Baptiste, proximo ante hoc computum, que pensio nunc expirat per Ordinacionem parliamenti precedentis hoc computum, vi. ~~ii~~, xiiij s, iij d." ⁸

The parliament mentioned here may be identical with King David's parliament at Scone. In that year, David II issued a charter to the Abbot and canons of Scone in regard to pensions granted by them, since it had transpired that these were paid to the great loss of the monastery, so that the revenues given to it by former kings were not now sufficient to maintain the house and its inhabitants. The king's Council, meeting in parliament at Scone, decrees that these pensions and other payments do not hold good without the consent of the

1. Exchequer Rolls, I, Introd. p.xcii.

2. Loc. Cit.

3. Exchequer Rolls, I, Introd. p.xciii.

4. Ibid. p.xciv.

5. Ibid. I, p.398.

6. Ibid. I, p.416.

7. A.G. Little, Studies in English Franciscan History, p.24.

8. Exch. Rolls, II, .289. This grant is probably that confirmed by the Pope, as a donation of David II, in 1345, (C.P.R. Letters, III, p.191; Vatican Transcripts, p.9.)

founders, and it is his concern to see that grants made to the monastery are not spent in ways other than those specified by the donor. He therefore proclaims the revocation of all such unwarranted payments, by the decree of his Council. "Et sicut nostram indignationem evitare volueritis istud facere nullatenus omittatis." ¹

This sharp reminder of the monastery's maladministration of its revenues, and the provision against a claim on the Crown for aid in its consequent impoverishment, arose, as in the instance of Restennet, from the need of husbanding the national finance, at a time when heavy demands were being made upon it. It is evident that the State was prepared to make no concessions to the regulars, when its interest was paramount; and that the Crown took precautions that burdensome claims on its patronage should be averted. The monasteries, in this instance were regarded as liable to pursue their own interests at the expense of the State.²

We have noted that the religious houses menaced the unity of the State by their existence as self-enclosed and separate corporations, owning no responsibility for secular services in correspondence with their privileges, but maintaining themselves apart for ends of their own. As continuous corporations with papal support, they were in a position of strength compared with the Episcopate, as a succession of individuals, whose rights arose and expired with their tenure of office, who each depended directly on the king's favour for the possession of revenues. Thus, in 1344, the Friars Preachers of Ayr obtained from David II, "A precept to the justiciars, sheriffs, provosts and others, commanding the strict observance of the Bull of Clement IV, affirming the rights and privileges of the order in respect of their succession to an enjoyment of temporal property."³ The strong vested interest of the monasteries was deliberately cultivated by allowing to be used to the detriment of their express assurance in regard to their men in the lands of Maybole and Largs, exempted

1. Lib. de Scon, pp.114-115.

2. How clearly this was recognised is shown by an instance somewhat outside our period. In 1385, Robert II by charter informed his subjects that it had come to the notice of the Crown that the monastery of Dunfermline, in receipt of the custom conceded by his predecessors, had usurped the custom due to the Crown, to its no small prejudice. The king has ordered this to be arrested, but the arrestment is now relaxed at the instance of the monastery, to the end that they may enjoy their privilege without encroachment on the king's custom, under the penalty of all that is thus lost to the Crown. (Reg. de Dunfermelyn, p.274.)

3. Charters of the Friars Preachers, of Ayr, p.10.

from military service, except in national emergency, and taken by him, in controvention of this privilege, for service in his host of Carrick, when the common host of the realm had not been called out, that henceforth he will respect their privilege.¹ Two examples are furnished by the Register of Arbroath. The first (1215-1219) by Alexander I is as follows -

"Sciatis quod G. abbas et monachi de Abirbrothoc ad petitionem nostram nobis liberaliter concesserunt ut homines sui in toftis suis manentes que habent in burgis^{nostris} auxilium faciant cum burgensibus nostris ad coria pre nobis adquietanda que vendidimus in Anglia in magna necessitate nostra quando prefecti fuimus usque ^{ad} doveram. Et volumus ut auxilium quod nunc vice nobis liberaliter concesserunt de predictis hominibus suis contra libertatem quam dominus rex pater meus debet per cartam suam non trahatur alias in exemplum vel consuetudinem...."²

So at a later date (1335) Robert the Steward of Scotland on behalf of David II relates that the monks -

".... Fecerunt nobis de gratia sua quoddam subsidium ad obsidionem ville de Perth.... Considerando statum regni Scotie ita destructum.... volumus quod huiusmodi gratia sua faciant ipsis preiudicium nec trahatur in exemplum alias quoquomodo."³

In these is a clue to their attitude towards the Crown. Their privileges count for more than the need of the State; and any concession them make is a favour not a duty. In this position was latent the denial of the ultimate right of the sovereign to call upon his subjects for service towards the state of which they were members. It is an assertion of their position as above and outwith the secular state and its obligations.

The same attitude is manifested in the chartularies of the religious houses. Their anxiety to establish their rights to lands, which at certain periods, like that of Alexander III, had acquired a high degree of value, is shown by the meticulous details set down in the charters of the boundaries and specifications of the territories in their holding. Furthermore, the nature of the chartularies themselves is an indication of the point of view of the houses in which they were composed. We have a remarkably small number of available sources of information on the inner life of the religious houses of Scotland. We have seen how sparse and haphazard is our knowledge of their work in regard to education. So also their practice of the religious life per se has left behind it few records. But there is ample recorded material for the determination of the monasteries' rights, possessions, revenues, privileges, exemptions, all that subserved their position as

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1. Lib. de Melros, I, p.313.
 2. Reg. de Aberbrothoc, I, p.80.
 3. Ibid. p.224.

capitalists, subsidized by the Crown, as quasi-barons, whose lands and manors had advantages for development denied the lands and manors of the secular chiefs.

So powerful and well conserved was this organisation of Monasticism that the Crown which had encouraged its growth had in the end to reckon with it as a growing menace to its authority, as conflicting in its aims with the aim of the Crown of unifying the realm under central control. By its accumulation of wealth, which frequently found its way outside the realm, and was not dedicated to national ends, by its jurisdictional powers, by its intrusion out of the sphere of spiritual things (the 'religious life') into the sphere of secular affairs, by its power of embroiling the sovereign with the Vatican, by its power of invoking interdicts and the danger of its acting as the political agent of foreign powers, the Monastic Movement became a menace to the kings of Scotland, a subject for diplomacy, for compromise and conciliation, which succeeded only because the Crown was sufficiently strong to hold the religious houses in control.

Apart from the menace of Monasticism, as a separate and enclosed corporation, to the unity of the feudal state, it menaced national unity and subverted fundamental principles of the body politic in two other respects. As an institution founded on celibacy and communal ownership of property, it virtually denied the holiness of marriage and the rights of individuality. These features of the Monastic Movement contributed largely to the ultimate abolition of Monasticism by the Reformers, since it was entirely incompatible with the programme of the Reformed State and Church.

Note to Foregoing.

There may be mentioned here a Statute of 1209, entitled in the Acts of Parliament of Scotland, "De vita et honestate clericorum." It is as follows -

"(Rex Willelmus) statuit quod viri ecclesiastici vivant honeste de fructibus redditibus et emolumentis ecclesiarum ita ut non sint husbandi neque pastores neque mercatores."¹

This may be taken as a corollary of the Crown policy towards the Church expressed in William the Lion's charters safeguarding the payment of tithe.² It appears primarily, to be a regulation for the secular church, indicating the king's desire that churchmen, assured of their emoluments under the protection of the Crown, should not become immersed in industry or commerce. What the Crown's motive was cannot be said with any certainty. It may have expressed the royal desire to keep the Church to its true vocation. It may have been designed to keep the Church dependent on the king's largesse by forbidding its participation in lucrative secular concerns. But this Statute is in accord with the ecclesiastical Statutes of this and succeeding centuries. David de Bernham's Synodal Statutes speak of "churchmen in our diocese, enslaved by the vice of avarice," who "address themselves to the employments of laymen, in consequence of which clerical credit is often injured."³

The question arises: Has the Statute of King William any bearing on the relations of the Crown and the regular clergy? Clearly, as far as the monasteries were concerned, any royal prohibition against industrial or commercial activity was a dead letter.⁴ For the king himself gave them facilities for such enterprises. If this Statute refers only to secular clergy, as is likely, it would appear that they were subject to a restriction that was not applied to monasteries. Nor indeed could it well be applied, without restricting the religious in carrying out the rule, in so far as they could be husbandmen or shepherds compatible with its obligations. But their mercantile activities were a special case. Here they exceeded their functions as religious, and exercised a privilege, from which the seculars were banned, under royal favour and compliance.

The conclusion is that the Crown regarded the religious as fulfilling a useful purpose in carrying out industrial and commercial concerns. They were adapted for this in a way that the seculars were not, for as communities they could carry out industry on a large scale, and engage in commerce as capitalist organisations; and such activities were in the interests of the State, in so far as they created wealth.

1. A.P.S. I, p.382.

2. Ibid. p.80. cited above.

3. Statutes, p.71, More explicit is a Statute of 1549. (Statutes, p.92.)

4. E.g. Reg. de Aberbrothoc, Foundation Charter.

Chapter IX.

We may now sum up the preceding argument regarding the relations of the Monasteries and the Crown.

The religious houses were an anomaly in feudal Scotland, in sharing the advantages of the Feudal System, but striving to repudiate the bond of allegiance to the sovereign which held the feudal state together. In this they were a disruptive element in the State, a source of danger, all the more because of their allegiance to the Pope, and the position of strength they could acquire through the development of their own wealth, and their exemptions from expending it on the direct service of the State. The compromise which held between them and the Crown was based on the useful fiction that the Crown was their patron whose alms went to the development of the 'religious' life. The price of their help or neutrality was their privileges and exemptions; and the Crown in endowing their houses, was cultivating them nominally as religious, in reality as an organisation with a definite political significance. They were useful to the Crown in developing the civilization which was the complement of the Crown policy of bringing the realm under the unified control of the sovereign. This was especially so in the period up to the War of Independence. Once this great struggle ended in the establishment of the Scottish monarchy and its rule over an independent state, there was less need for their assistance. The aims of the earlier kings had been realized. Now the religious houses could be kept under the more unconditional control of the Crown. The logical outcome of this new era in the Crown's treatment of the monasteries is seen in the attempt of James I to remedy the abuses in the religious houses.

Nor were the monasteries in Scotland ever able to assert any measures of overt defiance towards the Crown, or independence of it; and the support of the Papacy, which enabled them to obtain ascendancy over the Episcopate, was ineffective as a means of strengthening their independence of the supreme authority in the Scottish State, because the Crown was sufficiently strong to resist the power of the Pope. While monastic possessions increased in number and value during the reigns of the earlier kings (David I to Alexander III) the circumstances of the nation increased their need for security, and cast them upon the protection of the Crown, which was their immediate defender against spoliation and encroachment. Under the circumstances of war, their attitude towards the State was more sharply under supervision and their exemptions more invidious in the eyes of the king and barons.

The Monastic Movement, from its international character, might have been within this period, a precious influence towards national unity. In the charters of Arbroath, is preserved a concession, of the year 1205, by King John of England, granting at the request of the Scottish king that the monks may sell their own goods and but for their own use throughout his territory, free of toll

and other customs, saving the liberty of the city of London.¹ There is no indication, however, that even as traders, they promoted international good feeling between England and Scotland. Even in their character as religious they required safe-conducts in the same fashion as the laity; and in 1312, a petition of the Abbot and Convent of Arbroath to the Abbot of Kilwinning regarding the release of a monk taken prisoner, shows how little the international character of the religious was recognised.² Moreover, the English invaders destroyed religious houses in Scotland, assuming, in all likelihood, they they were inimical to the English cause. National jealousy was too strong to permit of the Monastic Movement assisting international friendship.

1. Reg. de Aberbrothoc, I, p.330.

2. Ibid. p.288.

"Quia nuper intelleximus quod Frater Johannes dudum abbas monasterii de Aberbrothoc et modo simplex monachus de guerra captus fuit in Anglia per Petrum de Stratheren seu per quosdam de familia ipsius et detentus est tanquam captivus penes ipsos pro redemptione facienda."

PART II.

MONASTICISM AND THE CHURCH.

The division of clergy into 'regular and 'secular' was well-established by the time that Western Monasticism entered Scotland. Originally, it was no necessary part of the profession of the religious life that monks should be clergy, in the strict sense of being in holy orders. We have it, however, on the authority of Abbot Butler, that "by the year 1000, it became the established rule that the monks should be ordained."¹ The antithesis between 'secular' and 'regular' had been developed within the Western Church, ere Scotland, in point of ecclesiastical government, came under the sway of the Vatican. Thus, when Margaret and her sons introduced the institutions of the Roman Church into Scotland, 'regular' and 'secular' clergy took up their appropriate spheres, the one in the newly founded monasteries, the other in the dioceses and parishes gradually organised in the reign of David I.

The regulars and seculars thus co-existed in common allegiance to the Vatican, the former as part of an organisation, international or rather 'supranational' in character, closely linked to the Papacy, and in the vanguard of Roman influence; the latter more distinctly national in spirit, but dependent on Rome not only through the allegiance of its bishops to the Apostolic See, but under the special circumstances of the Scottish Church, which had no national metropolitan and was privileged to have direct (nullo mediante) dependence on Rome, as the 'special daughter' of the Papacy. The papal compromise which led to this privilege had various implications. It satisfied the Scottish desire for a measure of autonomy and for freedom from the authority of York. It removed any grounds of grievance on the part of the English prelate by taking Scotland under the immediate authority of the Head of the Church, and by appointing no rival metropolitan in Scotland. But at the same time, this arrangement gave the Pope a large measure of control in the affairs of the Church in Scotland, since all matters in dispute were liable to be sent to the Curia for solution. From the point of view of the religious houses, this was, if anything, an advantage, increasing their independence of episcopal control. From the point of view of the bishops, the immediate dependence of the Scottish Church on the Papacy lowered their episcopal authority, involving an appeal to Rome to settle matters which for them, would be more advantageously settled on Scottish soil.

The characteristic difference between regulars and seculars was a difference of function. The former existed as a 'Church within a Church', as an organisation ostensibly devoted to the cultivation of the spiritual life, in communities living according to a rule. Their raison d'être was primarily their own spiritual

1. Benedictine Monachism, p.294.

welfare. On the other hand, the vocation of the secular clergy was the cure of souls, the ministration of religion to the laity. This sharp and simple distinction was broken down. The relations of regulars and seculars under the circumstances of monastic development could not continue on a basis of mutual exclusiveness, for the contact of monks and diocesan bishops, and the appropriation of parishes to monasteries were facts which in themselves brought about interaction between Monasticism and the Secular Church. When once this interaction had arisen, a problem was created. As the regulars differed in function from the secular clergy, they came into the sphere of secular activity as intruders. The question of their relations with the secular clergy may be put in this form: How far did the regulars displace the secular clergy and disturb the organisation of the secular church? It may be answered by considering

- (a.) Their relations with the Bishops.
- (b.) Their influence in Cathedral Chapters.
- (c.) Their influence in the Parish Churches and their relations with the Parish Clergy.

Chapter I.

The reign of David I saw the rapid growth of monastic settlements in Scotland, under the encouragement of the Crown. The monastic movement established itself in circumstances favourable towards its adaptation to new surroundings. Its principles were developed ere it reached Scotland; it arose not as an indigenous growth, but by a process of colonization. The benevolence of the laity, and chiefly the favour of the Crown provided its settlements with revenues, thus enabling the immigrant regulars to establish themselves with security and without struggle. Although bishops joined in the general liberality towards the monasteries, Monasticism in Scotland did not arise entirely under the aegis of a protecting episcopate. Only in the greater dioceses is there any sign of such protection. In this reign, the secular Church was in the earliest stage of its development. Dioceses were being founded, but in a sporadic fashion; and there is a marked contrast between the rapid establishment of Monasticism and the gradual establishment of diocesan authority, the contrast between a full-grown institution, adapting itself quickly to propitious circumstances, and an institution developing slowly in a difficult or hostile environment. There was no implied rivalry between regular and secular development, and the relation between regular and seculars in the earliest period were, with rare exceptions, vague. But the secular Church necessarily developed more slowly. It came into direct contact with the laity, to whom its institutions were unfamiliar and regarded with suspicion or hostility. The need for

William the Lion's legislation on the payment of tithe is shown by the situation at a slightly later date, in the See of Caithness, where at the beginning of the thirteenth century, episcopal authority was still of little account, where also the third bishop of the diocese, on attempting to "make his office a reality",¹ was murdered as the result of a dispute concerning the payment of tithe. The unequal development of dioceses, the slow growth of effective episcopal control had placed the religious houses in a position of comparative strength and independence of external authority ere any question of episcopal jurisdiction over them could well be asserted or the implications of their position were realized. An illustration may be taken from the diocese of Moray, a province imperfectly under royal control until the third decade of the thirteenth century, when Alexander II brought it finally under the authority of the Crown. Nevertheless, the monastery of Kinloss had been founded about 1150, by David I, and had been the recipient of benefactions by William the Lion. The diocese of Moray was instituted circa 1124, and the bishop took Kinloss under his protection 1187-1203. But it was not till 1215 that the chapter of Moray was reorganized after the pattern of Lincoln, and only in 1224, when Elgin became permanently the cathedral town, about the time of the pacification of the province, had the diocesan organization become effectively established. An indication of this may possibly be found in the fact that in 1229, a controversy between the Archdeacon and Precentor of Moray, on the one hand, and the monks of Kinloss, on the other, concerning disputed tithes of the prebends of Rathed, Forres and Alves,² was settled. This may be an instance of members of the diocesan chapter asserting their rights against encroachments of the monastery, previously unchallenged.

The parallel growth of Monasticism and diocesan episcopacy till the end of the twelfth century may be shown as follows:-³

Coldingham, 1098.
Scone, 1115.
Isle of May, post 1135.
Newbattle, 1140.
Dryburgh, 1141.
Holyrood, 1142.
St. Andrews, 1144.
Lindores, 1178.
Arbroath, 1197.

Diocese of St. Andrews, including monasteries of
Turgot, consecrated, 1109.
Cathedral begun, 1162.

1. MacEwen, History of the Church in Scotland, I, p.205.

2. Carte Abbacie de Kinlos, p.116.

3. Details taken mainly from MacEwen, op.cit. I.

Diocese of Glasgow, including monasteries of
First effective bishop, John, circa 1117.
Cathedral, 1181.

Melrose, 1130-33.
Jedburgh, 1138.
Kilwinning, 1140.
Kelso, 1158.
Paisley, 1164.

Diocese of Dunkeld. do.
First valid evidence of its existence,
1127; well organised.

Dunfermline, 1128. 1
Cupar, 1164.
Inchaffray, 1200.

Diocese of Moray. do.
Circa, 1124. Settled at Elgin, 1124.
organised after pattern of Lincoln, 1215.

Kinloss, 1150.

Diocese of Aberdeen. do.
Ante 1137, perhaps 1132.
Early completeness of organisation.
1157, arrangements for Cathedral Church.

Monymusk, (cell of
St. Andrews) 1138.
Fyvie, (cell of Arbroath
1179.

Diocese of Ross.
1128-31 mentioned.
No cathedral till 14th Century.

Monasteries nil.

Diocese of Dunblane. including monastery of
1150. Cathedral ruinous and diocese
desolated in 1232.

Cambuskenneth, 1147.

Diocese of Brechin.
Ante 1153. Under Celtic tradition
till 13th Century.

Monasteries nil.

Diocese of Caithness.
Developed imperfectly towards end
of 12th Century.

Monasteries nil.

The diocese of Candidacasa was still under the jurisdiction of York.

Certain generalizations may be made from this table. The majority of the new monastic settlements were in the early-established dioceses of St. Andrews and Glasgow, both of which embraced a large stretch of territory. At the other extreme, are the struggling sees of Ross and Caithness, in whose territory no monastic foundations had been made. Again, although the dioceses of Aberdeen, Moray and Dunkeld were comparatively well organised, few monastic settlements were made within their boundaries. The mere extent of the two first-named dioceses does not account for the number of monasteries founded within their bounds. The probable explanation of the concomitance of diocesan and monastic development lies in the fact that one favourable circumstance affected both - the authority

1. In most respects, Dunfermline may be taken as within the diocese of St. Andrews at this time.

of the Crown was established in Central Scotland, and the consequent pacification and progress of civilization were favourable to the growth alike of the Secular Church and of the monasteries.

Chapter II. The Attitude of the Bishops towards the Regulars.

The relations of the bishops and monasteries, although gradually determined in the formative period of *Ecclesia Scoticana*, gave rise to some of the leading problems that emerged from the position of the regulars as a 'Church within a Church', governed locally by the heads of their houses, dependent on the heads of their orders, responsible ultimately to the Pope. We have seen that the monastic movement was an anomaly in feudal society. No less was it so within a Church governed by the delegated authority of bishops. The bishop was not merely the head of the secular clergy of his diocese, maintaining order and efficiency in the constituent parishes with the assistance of the archdeacon and rural dean. He had jurisdiction over the religious houses within his diocese, as over his diocesan clergy in general. The Lateran Council of 1123 recognised the bishop's authority over the monasteries. Among its canons, were injunctions that abbots and monks should receive from their bishops the holy crism and oils, and their orders; likewise that monasteries should continue to render to their bishops the same services and dues that had been rendered since the time of Gregory VII.

The bishop was, first of all, the immediate protector of the monasteries, confirming their privileges, redressing their grievances. As the 'visitor' of religious houses, his authority was exerted in the regulation of their internal affairs. The receiving of the crism at his hands, ¹ the obligation of heads of houses (unless specially exempted) to attend his synods, ² the obligation to obtain his consent to the appropriation of parishes ³ were all recognitions of his authority. He alone could confer holy orders,

1. See below, p. 73.

2. Dowden, *Medieval Church*, p. 239.

3. Cf. Connell, *On Tithes*, I, p. 28. "In 1180 (strictly speaking, 1179) it was ordained by a General Council that no appropriations of churches with their tithes, should be made to any religious house without the consent of the bishop of the diocese."

dedicate churches, sacred vessels, ornaments and vestures. In these respects, the bishops were brought into immediate contact with the monasteries. It may be added that the growth of the system of appropriated parishes complicated the relations of the Episcopate and the monasteries, since the monastery must refer to the bishop for collation, and was responsible to him for serving the cure. One monastic house might be brought into contact with more than one bishop, in respect of parishes situated in different dioceses. They were thus involved in dealings with the Episcopate in a twofold capacity - as religious, simpliciter, and as religious exercising a secular function.

This ambiguous position suggests itself as a partial explanation of the divergence in the attitude of the bishops towards them. For we may classify the relations of the bishops and the monasteries under two heads -

(1.) The bishops are found co-operating with them, acting as their patron and safeguarding their rights. On the other hand,

(2.) The bishops are also found limiting them, in definite antagonism, asserting their ordinary power.

(1.) In the reign of David I, the charters of bishops to religious houses are, with few and unimportant exceptions, concerned with making grants, extending or confirming their privileges.¹ One exception is an 'agreement between the Bishop of St. Andrews and the Abbot of Dunfermline regarding the church of Eccles and the chapel of the castle of Stirling,'² based on the judgment of the king's barons, in presence of the king. The matter under discussion was the apportionment of tithes and burial dues between the church, an independent rectory, and the chapel, evidently held by the monks. The importance of this agreement is not that it is an example of a typical controversy between bishops and monks. The notable point is that it is settled by the barons in presence of the king, while at a later date it would have been discussed before papal delegates or ecclesiastical auditors. The problem is resolved by the temporal power, an implicit acknowledgment of the royal supremacy in ecclesiastical matters.

The royal attitude to the Church in the reign of David I, and the intimate dependence of the Church on the Crown is the clue to the almost uniform attitude of the bishops towards the

monasteries in this period. The monasteries were the chosen beneficiaries of Crown patronage; and the bishops, as servants of

1. This conclusion is based on a survey of Lawrie's "Early Scottish Charters."

2. Lawrie, E.S.C. p.146.

the Crown, were concerned to carry out the royal will, to promote the Crown policy. The Episcopate was benevolently inclined towards the 'religious' as such; and the interest of the monasteries had not yet come into open conflict with the authority of the bishops. Hence the tenor of the episcopal charters to the religious houses reproduces to a considerable extent, the generosity of the Crown, and is inspired by the king. Lawrie ¹ gives the charter of Robert, Bishop of St. Andrews, who, in 1127, granted to Coldingham freedom from aid, cain or conveth payable to the Bishops of St. Andrews. From another source we learn that in that year, when certain of the clergy of England and Scotland were in Roxburgh with King David, ² Robert, Bishop of St. Andrews called together the Prior and subprior of Coldingham "dicens et contestans se nullam capumoniā nullam consuetudinē clamasse super ecclesiam de Coldingham preter quod sicut omnes ecclesie totius Ledeneie generaliter debent obedire episcopo Sancti Andree." ³ In 1128, the same bishop, who gave the Church of the vill of Leuing to Holyrood in that year, saving the episcopal rights, ⁴ made the noteworthy concession to the monks of Kelso -

"Sciāt omnes.... quod pro amore Dei et honore et petitione David illustris Scottorum regis, concessi solutam et quietam et omni subjectione et exactione liberam, ecclesiam Sancte Marie de Calceho, quam idem Rex David in abbatiā.... edificavit ita scilicet ut abbas et monachi ejusdem ecclesie a quocunque episcopo voluerint in Scotia vel in Cumbria crisma suum et oleum et ordinationem ipsius abbatīs et monachorum et cetera sancte ecclesie sacramenta accipiant." ⁵

This was a momentous concession, making a considerable surrender of episcopal rights. Bishop Robert, in the charter to Holyrood (previously mentioned) had made the usual proviso regarding the monasteries' obligations to its diocesan. ⁶ But the grant of liberty to receive the crism from any bishop in Scotland or Cumbria was an ominous surrender of a sign of diocesan authority. Imbart de la Tour has shown the significance of receiving the crism, from the practice of the Church in France. The bishop required parish priests, for instance, to attend his synod, where, after giving an account of their ministrations, they received the crism. ⁷

1. E.S.C. p.59.

2. The assembly was held for the consecration of Robert as Bishop of St. Andrews.

3. Illustrations of Scottish History (Maitland Club), p.11.

4. E.S.C. p.67.

5. E.S.C. p.68.

6. "Salva reverentia ecclesie Sancti Andree et episcopali dignitate." (E.S.C. p.68.)

7. P. Imbart de la Tour, Les paroisses rurales dans l'ancienne France, p.84.

To make the receiving of the crism a favour, rather than a sign of episcopal authority was to yield to the monastery's desire for independence.¹ This concession, it is to be noted, is made in accordance with the royal will. So also, the grant of the church of Lesmahagow, to Kelso, made by John, Bishop of Glasgow, in 1144, "coram domino meo Rege David, " declares that church with the monks serving it "ab omni exactione et subjectione episcopali jure perpetuo liberam dimisisse et quietam."²

In 1144, Robert, Bishop of St. Andrews introduced the Augustinian canons to St. Andrews, and endowed their priory,³ and the rights of the house were confirmed by the king in the same year.⁴ The same bishop gave the church of Carriden to Holyrood in 1148, "ita libere ~~et~~ ex omni exactione quietam sicut aliquam in tota diocesi nostra ecclesiam liberius et quietius possident."⁵

The Bishop of St. Andrews and Glasgow are found confirming the donations of individuals to the monasteries, confirming also lands and privileges already in their possession (e.g. Dunfermline, 1150-1153), and the Bishop of St. Andrews announces an agreement, made before himself and Hugh the Constable, touching the dues of the church of Ednam and the chapel of Newton, in terms beneficial to the monks of Coldingham to whom the church belonged.⁶

1. The consideration that this was an inlet to the lowering of episcopal authority over the monasteries belongs more properly to the next chapter. But a commentary on this grant of 1128 is found in 1473, and may be inserted here. "(Archbishop) Graham represented that the Abbot of Kelso, exempt from his jurisdiction, made his liberty a cause of offence, administering to the detriment of the house, and paying his debts when it suited him; and also that similar results might follow were Holyrood to exercise the exemption obtained from Paul II.... He argued that the exemption of these places could no longer be tolerated and that a general revocation would impose discipline and put an end to the complaints of laymen forced to have recourse to Rome. By a papal document, commissioners were appointed to carry out the revocations. (Herkless and Hannay, Archbishops of St. Andrews, I, p.48).

2. E.S.C. p.136.

3. E.S.C. p. 124.

4. E.S.C. p.126.

5. E.S.C. p.166.

6. E.S.C. p.173.

In this formative period of the secular and regular organisations, the absence of friction between bishops and monks is noteworthy. The bishops are engaged in furthering the monastic movement. The problems arising e.g. out of appropriated parish churches had not emerged on any marked degree.

In subsequent reigns, the relations of bishops and monks became more complex, more tinged with controversy. Nevertheless, similar instances to the above continue, and bishops on their own initiative, or in furtherance of Crown policy, or at the request of the monks for justice or protection, patronize the monasteries and safeguard their rights. Thus Hugh, the nominee of William the Lion to the disputed see of St. Andrews, takes Dunfermline under his protection and that of 'the Blessed Andrew, Apostle.'¹ Richard, Bishop of St. Andrews gave privilege to the canons of Scone to retain in or remove from their churches whatever suitable chaplains they wished and when they wished, "salvis episcopalis nobis.... annuatim redditibus exceptis."² Roger, bishop of the same diocese, makes the important concession in 1198 to the newly-founded monastery of Arbroath that when the chaplains or clergy of their appropriated churches retire, his archdeacons and officials will not hinder any suitable successors, whom the monks may have presented from the free exercise of their ministry in these churches.³ The same bishop, before 1200, confirmed to the monastery of Kelso certain appropriated churches of that house, with the proviso-

"Ut predicti monachi habeant predictas ecclesias ad proprios usus suos et ut habeant liberam administrationem et dispositionem earundem ecclesiarum et eas in manu sua retineant,"⁴

It will be shown in the succeeding section that this grant, soon discovered to be against the bishop's interest, was a very considerable concession to the monastic desire for independence. Roger was also responsible, at the instigation of Earl David, the patron of Lindores, for the grant and confirmation to that house of the church of Lindores, and the rights of rector (personatus) ".... so that the aforesaid church of Lindores may be free and exempt from corrodies (probably grants demanded by the bishop), claims for entertainment (e.g. on visitation), synodals (the sign of

1. Reg. de Dunfermelyn, p.60. 2. Lib. de Scon. p.31.

3. Reg. de Aberbrothoc, I, p.102.

4. Lib. de Chalchou, p.61. This like other grants to Kelso had no provision for the safeguarding of episcopal rights. In the succeeding section it will be shown that the Bishop asserted them probably in the next year. But it may be noted here that Lyon (History of St. Andrews, I, pp.98-99) appears to blunder in saying that this concession was the result of the settlement of the controversy over Kelso's churches at the Council of Perth. It appears more likely that it was the cause, as ministering to the monastery's desire for independence of the bishop.

subjection to episcopal authority) and can and conveth. We grant and confirm to them also the dignity of the peace and all other liberties which an abbey ought to have."¹ Again, before the year 1214, the Bishop of Brechin conceded to the monastery of Arbroath that certain of its churches should be exempt from claims for entertainment on his visitations, and that he should only make that claim on the abbey himself.² So also, in 1220, the Bishop of Glasgow intimating that no precedent shall arise from the fact that the Abbey of Paisley had extended hospitality to him and his, declares that house exempt from synodals and procurations;³ and in 1327, William de Lambertton gives to Newbattle the church of Bathgate, free of all procurations and declares "*dictam ecclesiam de B. annuatim semel vel pluries visitare ipsam sumptibus nostris et ecclesie nostre expensis visitabimus et visitabunt nichil omnino ab ipsis religiosis de Neubottle exigendo vel recipiendo nomine procurationum in esculentis et poculentis aut pecunia numerata....*"⁴

Two charters of Bishop David de Bernham show that prelate assisting religious houses to maintain charitable activity. He restores to the Prior and canons of Monymusk, "Dolbethoc with its just pertinents, to be held by them.... for sustaining poor persons and travellers meeting there,"⁵ for which purpose also Kelso is permitted, in 1251, to serve the church of Symprinc by a chaplain instead of a vicar.⁶ A typical grant to the Abbot and Convent of Cambuskenneth, by the Bishop of Dunkeld, in 1260, gives that house the privilege of serving the church of Alveth by a chaplain, "on account of the poverty of the convent."⁷ In 1294, the Bishop of St. Andrews gave the canons there the church of Leuchars, "because they were afflicted by various disasters.... and got no relief from their insupportable burdens... whereby they had contracted debt and had fallen into the hands of the moneylenders."⁸

A considerable number of episcopal charters indicate activity on the part of the bishops to remedy injuries and abuses suffered by the religious houses. The Bishop of Brechin is employed by Innocent IV in 1248, to recover alienated property of the canons of Inchaffray;⁹ and the Bishop of Dunblane by Nicholas IV in 1291, to perform a similar service for Balmerino.¹⁰ In 1294, Robert,

1. Chart. of Lindores, p.129. 2. Reg. Episc. Brechin. II, p.260.

3. Reg. de Passelet, p.325.

4. Reg. de Neubottle, p.125.

5. Macpherson, Church and Priory of Monymusk, p.126. (from Reg. St. And. p.369).

6. Morton, Monastic Annals, p.127.

7. Chart. of Cambuskenneth, p.24.

8. Reg. St. And. p.400.

9. Inchaffray Charters, p.69.

10. Lib. de Balmorynach, p.54.

Bishop of Glasgow, makes a lengthy inhibition against Malcolm, Earl of Lennox and others, who had persisted in taking proceedings against the monks of Paisley in a secular court, in regard to lands held in frankalmoigne.

"In ecclesiastice libertatis quam plurimum preiudicium et gravamen et binas districtiones pro duobus merciammentis de bonis eorundem religiosorum capi fecerunt et capta detinent iniuste, contra libertates ecclesie, pro eo quod dicti religiosi in curia sua laycali super eisdem terris elemosinatis minime respondere voluerunt, prout de jure non tenebantur...."

He instructs the clergy of the deanery of Lennox and the archdeaconry of Glasgow to denounce them publicly as excommunicated and under interdict, in the event of their continued oppression of the monks.¹ So also in 1342, William, Bishop of St. Andrews, instructs the clergy of his diocese in regard to the oppression of Melrose-

"Quam aggredientes et animo malignandi intrantes domos celulas clausuras grangias et terras quascunque monasterii de Melros.... libertates eiusdem invadendo bona et possessiones suas distrahendo destruendo et iniuste detinendo sint sententia excommunicationis maioris auctoritate privilegiorum a sede apostolica eidem indultorum innodandi, vobis.... mandamus firmiter precipientes quatinus omnes huius transgressores et libertatum eiusdem invasores si post moniciones canonicas eisdem generaliter vel specialiter factas non satisfecerint seu ad emendacionem condignam minime venerint, singulis diebus dominicis.... auctoritate nostra conservatoria excommunic-
etis...."

Likewise those who lay violent hands on the monks or 'conversi' of Melrose are to be excommunicated.²

The Bishop of Moray is found, in 1369, taking measures to resist interference with the liberties of Pluscarden. He relates that Sir Archibald de Douglas, and John de Haya, Sheriff of Inverness had instituted a process "to the serious loss of the Priory of Pluscarden, and the very great prejudice of the Church's jurisdiction" which he petitions them to revoke. The process in question had arisen from the monastery's possession, by royal donation, of the multures of Quarelwode, whose lord had arrested the monastery's agent collecting multures within the ecclesiastical lands and put him in his private prison, with the result that he incurred the sentence of excommunication, "preter id quod in regiam maiestatem commisit." The matter had been taken by the lord of Quarelwode to the secular court. "Sed non concesso," says the Bishop, "quod ad seculare forum pertinent."³

1. Reg. de Passelet, pp201-204.

2. Lic. de Melros, II, p.397.

3. Reg. Episc. Morav. p.168 foll.

Again, the bishop is sought to establish particular rights of the Abbot and monastery. Thus in 1358, the Bishop of Moray, with his chapter, gave judgment in favour of the Abbot of Dunfermline, whose right to be consulted in the election of the Prior of Urquhart had been jeopardized by the appointment of a prior without his consent.¹

One further point may be noted. It has been shown that the introduction of the monastic orders was due rather to royal than to episcopal initiative.² There is evidence that the Episcopate showed more direct favour to the Mendicant Orders arriving in Scotland, as a second influx of regular clergy, representing a new development of the monastic movement. Malvoisin may have been instrumental in introducing the Friars Preachers.³ But in the period 1272-1279 Bishop Wishart of St. Andrews founded a friary for the Dominicans, who were free from episcopal control, and allowed to hear confessions, and to give the sacraments to any who desire them.⁴ Richard, Bishop of Dunkeld, showed favour to the Carmelites, and built for them their house and chapel at Tillilum, where the diocesan synod of Dunkeld was regularly held.⁵

We have now to account for the policy of the bishops illustrated above. Assuming that in the early period, the benevolent attitude of the bishops towards the monasteries is explained by imitation of the royal policy, and that the main points of controversy between bishops and monks had not fully emerged, how may we account for the frequent examples of assistance and conciliation that are found from time to time during this period. There is probably no hard and fast explanation, even as there was no consistent episcopal policy. But there were certain contributory causes which explain in a measure many instances of their more benevolent position towards the religious houses.

(i.) As has been already suggested, they dealt with the monasteries as 'religious', i.e. they accepted the notion that Monasticism represented a particular and superior form of spiritual development, and consulted its welfare. This accounts in some degree for the actual concessions made to the religious houses, to remedy their poverty, to further their charitable activities.

(ii.) In confirming grants and privileges, they were conferring no unusual favour, but simply exercising their power as guardians of the Church's temporalities.

(iii.) Some matters in which they came to the assistance of the monasteries concerned not only the monasteries but the Church as a whole. There were, that is, matters in which there was no clash of interests. Such were protection against spoliators,

1. Reg. de Dunfermlyn, p.266.

2. There are exceptions, e.g. Robert, Bishop of St. Andrews' introduction of the Canons Regular to St. Andrews in 1144.

3. See. above, p.31

4. Lyon, St. Andrews, I, p.126.

5. Fittis, Ecclesiastical Annals of Perth, p.201.

protection against their being taken into the secular courts, the defence of ecclesiastical liberties.

(iv.) The authority of the bishops was limited. They were not only the servants of the Crown, but their authority was derived from the Papacy. The bishops were forced to accept the fact of the ecclesiastical system, under which the Pope could grant exemption at his own discretion, which did not fit in with the government of the Church by its diocesans.

(2.) But it is significant that in the matter of authority the fundamental causes of friction between bishops and monks are found. Imbart de la Tour has noted that in the tenth Century the underlying source of opposition between bishops and monks had begun to disclose itself in the Church of France.¹ The monks stood for the unlimited power of governing Christian society (as manifested in the claims of the Papacy); the bishops for authority limited by the canons. Thus, in Scotland, the monasteries tended to take up a position of responsibility to the Pope alone, and to gain from him exemption from any lesser authority. The bishops, on the other hand, were concerned with the maintenance of their hierarchical organisation, in which they held a delegated authority over their dioceses. To them, the monasteries threatened to become an anarchical influence, escaping or flouting their diocesan powers. The breaking-point in the relations of monasteries and bishops came when the authority of the latter in its characteristic forms was menaced, when the order which they had the responsibility of maintaining was disturbed by disruptive influences.

Instances of matters in controversy are found not only in charters dealing with the direct relations of bishops and monks, but, significantly, in papal rescripts giving judgment on questions referred to the Curia. There are, first of all, instances of the general insistence on episcopal authority over the religious houses. In 1144, Lucius II, confirming the possessions and privileges of the canons of St. Andrews, makes the proviso, "salva episcopi nostri canonica justitia ac reverentia."² The Bishop of Aberdeen, between 1199 and 1207, stipulates that the canons of Monymusk "be subject to no house nor yield subjection to anyone but ourselves and our successors, as other religious houses throughout the kingdom of Scotland, arranged in dioceses, ought to yield to their own bishop;" and in 1220, a dispute between the Bishop of Glasgow and the Canons of Jedburgh regarding incompatible rights and privileges, was settled by five arbiters, who gave judgment in favour of the bishop. "The abbot and canons were directed to obey the bishop, or his official, in all canonical matters, in a canonical manner, saving their mutual privileges."⁴

1. P. Imbart de la Tour, Les Elections Episcopales, p.303.

2. Lawrie, E.S.C., p.130.

3. Reg. St. And. p.375. This is opposed to the monastic privilege of going to any bishop they chose for crism etc. Cf. Kelso, which had this privilege, and Scone, which was required by the Pope in the reign of Alexander III, to receive the crism and oil, the consecration of altars etc. from their own diocesan (Lib. de Scon, p.76.)

4. Morton, Monastic Annals. p.5.

In certain more specific instances, involving the recognition of episcopal control, the bishops seek to exert their authority over religious houses.

(i.) In regard to attendance at synods, as a recognition of episcopal authority on the part of the heads of religious houses. A provision of the settlement between the Bishop of Glasgow and Jedburgh in 1220, was that the abbot, when summoned, was not to omit attendance at synods.¹ In 1253, Innocent IV, at the request of the monastery of Balmerino, reiterated the Cistercian privilege -

"Ut nullus vos seu monasteriorum vestrorum personas ad synodos vel forenses conventus nisi pro fide.... absque mandato sedis apostolicæ evocare.... presumat."²

The appeal of the monastery signifies that attendance at synods had been demanded of them. Again, before 1298, the exemption of

Premonstratensian houses from episcopal authority had not obtained full recognition in Scotland, since the abbots of Dryburgh were obliged to attend the synods at Haddington, and were only released from this duty by William de Lamberton (1298-1338).³ A controversy between the Bishop of Argyle and the monastery of Paisley, settled in 1362, revealed the fact that the bishop had arrested thirty-three shillings and fourpence belonging to the monastery, on the ground that the abbot did not come to his synod, the abbot claiming exemption and privilege.⁴ There is in the charters of Lindores, a legal opinion giving at considerable length, a discussion of the claims of the Bishops of Aberdeen and Brechin that the Abbot of Lindores should attend their synods.⁵

(ii.) In regard to visitation and the correction of abuses. The Bishop's visitation implied recognition of his authority, in investigating and remedying abuses within the monasteries. The bishop's duty of maintaining order within the religious houses was recognised by Honorius III, who, in 1221, instructed the Bishop of Glasgow to take measures against certain canons of Jedburgh and others in his diocese, who had disregarded the sentences of excommunication passed on them for their excesses.⁶ In 1290, Nicholas IV ordered the Bishop of St. Andrews to correct abuses in the monastery of Arbroath, where the abbot had been guilty of irregularities and alienations of the monastery's possessions.⁷

Records of actual visitations are extremely rare in the charters of this period. But two such records (one in a mutilated form) survive in the charters of Scone, and deal with the visitations by the Bishop of St. Andrews of that house in January, 1365, and October, 1369.⁸ The 'various faults' which the bishop, in virtue

1. Morton, Monastic Annals, p.5.

2. Lib. de Balmorynach, p.49.

3. Morton, Monastic Annals, pp.

295-6. 4. Reg. de Passelet, pp.145-7.

5. Chart. of Lindores, p.212 foll.

6. Theiner, Vet. Mon. Hib. et Scot. p.18.

7. C.P.R. Letters, I, p.520.

8. Lib. de Scon, pp.137, 139.

of his pastoral office, seeks to correct, are infringements of the 'rule', and such specific faults as the slipshod performance of divine service, insufficient supervision of the younger canons, frequenting the towns of Scone and Perth, and entering taverns and shops without special permission, the carrying of arms, the presence of women in the monastery. He insists also on the appointment of an efficient treasurer, the avoidance of a plurality of offices on the part of individuals, and the adequate repair of their buildings.

The rôle of the bishop, in such an instance, is that of a reformer of abuses. In this, he did no more than recall the monastic community to its professed observance of a rule; and in doing so, was the antagonist of Monastic degeneracy, not necessarily of Monasticism in general. But the conflicting views of bishops and monks on the matter of visitation arose on another and more prosaic issue than that of the spiritual wellbeing of the religious houses. Visitation implied a recognition of the bishop's authority, in that hospitality had to be extended to him and his entourage. "It was necessary to provide for the visitor's expenses: it was just, again, that these should be defrayed by the visitands: but here was a door opened for extortion on one side and default on the other."¹

The resistance of the monasteries to this obligation, as a sign of subjection to episcopal authority, explains the insistence of the bishops on their rights of visitation. A notarial instrument of 1345 records that in the presence of the Bishop and Chapter of Moray and the notary and witnesses, the Prior, sub-prior and two monks of Pluscarden testified that from the foundation of the Priory onwards, the Bishops of Moray "*quotienscunque videbatur eis expediens exercuerunt visitationem et correctionem.... in predicta domo prioribus et fratribus ejusdem et procuraciones receperunt nullamque exemptionem seu privilegium contra hec se habuisse vel habere recognoverunt,*" testifying also that the right of visitation of Valliscaulian monasteries by the bishop of the diocese in which they were situated, was observed in Germany and other continental lands.² That this admission is recorded by a notary public, and preserved among the episcopal charters, is in itself evidence of its importance as a confirmation of episcopal authority.

1. Coulton, *Five Centuries of Religion*, II, p.251.
 2. *Reg. Episc. Morav.* p.156.

(iii.) The above are instances in which the bishop deals with the monks more definitely in their capacity as 'religious.' But there remained a fruitful source of controversy in the intrusion of the monasteries into the sphere of secular activity by reason of the appropriation of parish churches with their revenues to religious houses. The discussion of the respective attitude of bishops and monks to the service of parish cures, and the rights of the incumbents belongs properly to a succeeding section. Here it will be sufficient to note the stress laid by the bishops on their powers as patron and ordinary in the following matters -

(a.) It has been shown that the Lateran Council of 1179 decreed that no laymen should confer tithes or churches on monasteries without the consent of the diocesan bishop. The validity of an appropriation, that is, depended on the bishop's sanction. As early as the period 1181-1185, Jocelin, Bishop of Glasgow, obtains from the Pope, the declaration that no religious in his diocese may take possession of a vacant parish church without his consent.¹ In 1248, Innocent IV, in a view of the complaint of the Bishop of St. Andrews that certain religious in his diocese have taken possession of churches de facto, gives the bishop power to deal with the abuse, provided that the religious are not protected by a papal concession;² and the recognition of the bishop's right to refuse his assent to an appropriation is curiously illustrated in a charter of Roger de Quincy, Early of Winton, in 1262, who grants the church of Collessie to Lindores, "if they are able to obtain it to any extent for their own uses."³

(b.) The bishops insist on the appointment of a priest to a vacant benefice within the canonical limit of time. This provision was designed to check wilful delay on the part of the monasteries, who, by neglecting to appoint a vicar, could receive the whole revenue of the benefice. About the years 1185-1187, Jocelin, Bishop of Glasgow obtained from the Pope power to appoint to churches in the hands of the religious, who had failed to fill the vacancy within three months of its occurrence.⁴ Similarly, in 1207, Innocent III permitted the Bishop of St. Andrews "to put fit persons into churches belonging to religious who wilfully neglect to present to him chaplains or clerks within the canonical limit of time."⁵

1. Reg. Episc. Glasg. p.53.

2. Theiner, Vet. Mon. Hib. et Scot. p.50.

3. Echart. of Lindores, p.170.

4. Reg. Episc. Glasg. p.58.

5. C.P.R. Letters, I, p.29.

(c.) The bishops claim the right of collation to vacant churches, and require that religious houses should present to them vicars or chaplains for institution to benefices. This is well illustrated by the relations of the Bishops of St. Andrews and Glasgow with the monastery of Kelso, to which in the period before 1200, Roger, Bishop of St. Andrews had given the 'personatus' of Hume, Greenlaw and others with the following concession.-

"Ut habeant liberam administracionem et disposicionem earundem ecclesiarum et eas in manu sua retineant et liceat eis quos voluerint capellanos in eisdem ecclesiis retinere. Quare volumus et precepimus Archidiaconis Officialibus Decanis et aliis ministris nostris in quorum administracione predictae ecclesie predictorum monachorum sunt ut cum capellani earundem ecclesiarum decesserint non impediunt alios quos idem monachi voluerint in eis celebrare...."1

The considerable measure of liberty thus conferred was soon to be modified. In 1201, at the Council held by the papal legate at Perth, the question of the rights of the Bishops of St. Andrews and Glasgow in the churches appropriated to Kelso, had arisen and was settled with such provisions as follows -

"Quod idem monachi presentabunt clericos vel sacerdotes idoneos episcopis ad omnes ecclesias illas qui erunt vicarii perpetui et suscipient curam animarum de manu episcopi et respondebunt episcopis de episcopalibus....

Cedentibus autem vel decedentibus clericis vel sacerdotibus qui in ipsis ecclesiis ministrant, illi quos abbas et monachi presentabunt recipientur ab episcopis, nisi episcopi rationabilem causam ostenderint quare non sint recipiendi...."2

Further insistence on these provisions is made between 1208 and 1232, in the episcopate of Walter, Bishop of Glasgow, who declares that the custody of vacant churches will remain in the hands of the bishop until the appointment of the vicar,3 thereby preventing revenues from accruing to the monastery through the vacancy, and in direct negation of the privilege obtained in the Council of 1201 -

"interim vero liceat dictis monachis ecclesias earum proventus et obventiones in manus proprias retinere donec ad dictas ecclesias aliquis idoneus admittatur...."4

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1. Lib. de Calchou, p.61.
 2. Ibid. p.328.
 3. Reg. Episc. Glasg. p.82.
 4. Lib. de Calchou, p.329.

The design of the bishops in their relations with the monastery is clear. As representative of ecclesiastical authority, they assert the right of controlling appointments to secular benefices, and resist attempts to undermine their right to collate 1 and to judge of the fitness of candidates. Thus, throughout this period, they continue to require that vicars, nominated by monastic patrons, should be presented to them for institution.

(d.) The bishops were careful to ensure that appropriated churches did not pass outwith their control and the supervision of their officers. In the charters of Melrose is the record of a grant by William, Bishop of Glasgow, of the church of Magna Cavers to that monastery. The position of the monastery in respect of this appropriated parish church is emphasized thus -

"Salva tamen nobis.... obediencia per abbatem dicti monasterii qui nunc est et suos successores in perpetuum tanquam Rectorem et Rectores dicte ecclesie prout antea fieri consueta fuerat...."2

Still more explicit is the claim of jurisdictional powers over (in this case) an appropriated chapel, in the protestation of an Archdeacon of Teviotdale, resisting the claim of the monastery of Hôlmcultram that the chapel of Kirwinin is exempt from the jurisdiction of the Bishop of Glasgow and his officers -

"Dominus Willelmus Wyschard, archidiaconus Theividalie, in cujus archidiaconatu predicta capella sita esse dinoscitur pro jure suo.... protestatus est nullo modo jus suum vel successorum suorum consentiens minorari nec.... capitulum Glasguense dictam confirmationem quoad jus episcopi communi sigillo muniens jus antedicti archidiaconi vel successorum ejus intendebat imminuere sed iurisdictionem ipsius et successorum suorum in predicta capella in omnibus illibatam et integram conservare...."3

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1. That attempts were made by the religious houses to avoid obtaining episcopal collation is revealed in a rescript of Gregory IX (31st May, 1231), who writes to the Bishop of Glasgow: "Sane tua nobis fraternitas intimavit quod abbas de Passeleht et quidam alii tam religiosi quam clerici seculares tue diocesis in Monasteriis et ecclesiis suis instituentes pro sua voluntate vicarios et de novo pensiones augentes ipsos tibi presentare contempnunt, quamque super hoc exemptionis privilegium non ostendant, super quo apostolicum adhiberi remedium postulasti." (Reg. Episc. Glasg. p.136.
 2. Lib. de Melros, p.434.
 3. Reg. Episc. Glasg. p.214.

But the phrase 'salvis episcopaliibus,' or such a variant as 'salvis tantum synodalibus et communibus auxiliis rationabilibus', indicates the form which the recognition of the bishop's authority and the authority of his officers took in respect of the parish churches, viz. the payment of dues, in the form of 'procurations', 'synodals' or 'cathedratica.' All were the sign of the bishop's superiority in his diocese. But the payment of 'procurations' was more immediately connected with the oversight of the diocese by the bishop and his subordinates. According to Dowden, "they consisted originally in the hospitable entertainment of the bishop and his attendant train when he came to make his visitation of the parish churches. In process of time, this obligation was commuted for payment in money."¹ Two provisions are thus frequently made by the bishops, in order that procurations may be forthcoming, - that the vicar shall have a stipend sufficient "ita tamen quod nullus sit defectus de episcopaliibus" ², and also "ita quod si episcopus vel archidiaconus vel officialis vel decanus parochiam ³ suam visitet, ecclesia que tanti est quod possit sufficere rationabiliter ad procuracionem ipsis faciendam faciat." ⁴ The aspect of the episcopal insistence on the payment of procurations which directly affects the relations of bishops and monks is the apparent desire of the former that their authority over parish churches, even when appropriated to religious houses, should be maintained and recognised in the customary manner.⁵

From the above discussion, it will appear that the attitude of the bishops to the monasteries is, in general, that of patronage plus authoritative control. In virtue of his office, the bishop is responsible for the welfare of the religious houses within his diocese, both in respect of adequate provision for their needs and in correction of defects and abuses within them. He is their patron, granting and confirming their possessions and privileges. As the Crown is the originator and safeguard of their tenure of land, so the Bishop, the representative of the Church, originates and safeguards their possession of churches, with tithes and other revenues. But as the representative of constitutional authority based on the canons, maintaining discipline and order in his diocese, he demands that the monasteries should come within the scope

1. Medieval Church in Scotland, p.118.

2. Reg. de Aberbrothoc, I, p.117.

3. Here 'parochia' is used in the sense of 'diocese' or 'district'.

4. Reg. de Aberbrothoc, I, p. 116.

5. The other side of the matter is reflected in the canons of the Lateran Council on procurations. The monastic attitude to them is well shown by the fact that these canons are carefully inscribed in the Chartulary of Dunfermline.

of his jurisdiction, ¹ and notably when they exercise rectorial functions.

As the aim of the monastery was the maintenance of an exclusive position, independent of episcopal control, the assertion of the Bishop's authority ought invariably to have followed on their attempt to avoid its incidence. Yet there is no uniform resistance on the part of the bishops, towards limitation of their authority by the action of the monasteries. Why was the assertion of episcopal authority modified in practice? Two reasons may be assigned. Sometimes the monks were placed beyond episcopal control by receiving exemptions from a power which overrode the bishop's, viz. the Pope. Moreover, the Popes did not consistently support the exercise of diocesan authority. The bishop might seek, for instance, to make his will effective by excommunication. But this could not affect a house which was immune from that form of censure. Thus, in view of the position of strength which the religious houses frequently were able to attain, conciliation rather than absolute resistance was forced upon the bishops. If they could not exert plenary authority, the alternative course was to accept the amount of recognition of their ordinary power that the monasteries were willing to yield.

1. Cf. the decision, in 1220, of the five men appointed to settle disputes between the Bishop of Glasgow and Jedburgh; "Ut si quando episcopus vel ejus officialis super formam concilii rite tulerit sententias in canonicos de Jeddworde vel eorum conversos salvis utriusque partis privilegiis eas reverenter observent et obediant eisdem. Qui autem rebelles fuerint vel inobedientes per censuram ecclesiasticam compellantur ad obediendum." (Reg. Episc. Glasg. p.97.)

Chapter III. The Attitude of the Religious towards the Bishops.

We may now examine the features of the Monastic Movement which made it irreconcilable with the system of episcopal government. It is significant that among the exemptions obtained by the monasteries, a great proportion affect their relations with the Episcopate.

(1.) The bishop could not make use of the monasteries to further the ends of episcopal government. As an organisation, the religious were amenable to his authority in the main, only in so far as it was necessary to them, e.g. in confirming their possessions, in conferring holy orders. Even this scant recognition of the bishop's power was further minimized. Witness the clause which figures frequently among the exemptions recorded in papal charters of confirmation -

"Crisma vel oleum sacrum consecraciones altarium seu basilicarum benedictiones abbatis ordinationes monachorum sive clericorum et alia ecclesiastica sacramenta a quocunque maluerint episcopi in Regno Scocie.... suscipietis, siquidem Catholicus fuerit et gratiam atque communionem apostolice sedis habuerit qui nostra fretus auctoritate vobis quod postulatur impendat...." ¹

Such an exemption presupposed the recognition of episcopal but not of diocesan authority. The bishop was to subserve the uses of the monks, but to exercise no control over them.

Another common privilege extended to the religious has a direct bearing on their relations with the bishops. It is of the form -

"Ut per litteras apostolicas vel legatorum apostolice sedis citra mare Scotie super bonis que habetis in Scocia conveniri minime valeatis....indulgemus nisi eedem littere apostolice de indulto huiusmodi plenam et expressam fecerint mentionem." ²

The effect of this exemption would appear to be that the appeal of the bishops to the Curia for redress against the religious could be stultified.

Likewise the use of ecclesiastical censures to enforce episcopal authority was rendered abortive by monastic privileges. In 1182, Lucius III declares in a Bull to Dunfermline -

"Interdicimus etiam ne quis in vos vel monasterium vestrum excommunicationis suspensionis aut interdicti sententiam sine manifesta et rationabili causa audeat promulgare." ³

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1. Lib. de Calchou, p.352, (Innocent IV, 1243-54) and any parallels.
 2. Reg. de Dunfermelyn, p.188. 'Mare Scoticanum' is used for the Firth of Forth (Lib. de Calchou, p.472) but this meaning is inapplicable here.
 3. Reg. de Dunfermelyn, p.155.

Innocent IV (1243-54) extends to ~~Kelso~~ unqualified immunity in these terms -

"Interdicimus, autem ut nullus unquam archiepiscopus vel episcopus vel alius aliquis preter Romanum Pontificem ^{littera destinationis monasterium ipsum interdictum sine} apostolice sedis mandato supponat aut abbatem vel fratres in dei servicio commorantes ibidem vinculo excommunicationis vel suspensionis astringat. Quod si factum fuerit sententia nullam firmitatem habente, divina nichilominus libere celebretis...." 1

Another type of privilege could be turned to account against the obligation to attend episcopal synods. It is exemplified in an indult of Gregory IX to Paisley (1233), which states -

"Cum... nonnulli clerici et laici frequenter et malitiose ad iudicium in locis remotis citari promulgent.... indulgemus... ut ultra duas dietas a proprio monasterio super hiis que infra ipsas... habetis, per litteras apostolicas que non fecerint de hac indulgentia mentionem, non compellamini alicui respondere...." 2

The same house was exempted, in 1265, from the holding of assemblies by seculars 'within its precincts.' 3

The exemptions, however, which presented the most formidable opposition to the control of the bishops over the religious, are those derived by individual houses from their membership of exempted orders. Coulton has noted the extent to which exemption from episcopal visitation had grown. "Cluny, itself, had been exempt for some time but now Urban II exempted the whole Cluniac order (1088, 1097)... St. Bernard repudiated the privilege for his Cistercians, yet within a generation of his death, they also were exempt; so also were the Premonstratensians, then all four orders of friars and roughly every new order founded after 1200." 4 Scottish monasteries supply many instances of this defensive immunity, which was ultimately a negation of episcopal jurisdiction over the religious; and their Chartularies preserve copies of papal bulls of privileges granted to the favoured orders.

We may note what some of these privileges were; and, first, of the Cistercian houses. A typical charter, preserved in the Register of Newbattle, records the privileges given by Innocent III to the Abbot of Citeaux and his co-abbots, in 1205. The Cistercians are set free from the obligation to attend synods or public assemblies, from sentences of excommunication, suspension, or interdict. Likewise, "cum.... prelati vel iudices ordinarii et alii ecclesiarum rectores.... asserunt vos per quavis offensa

1. Lib. de Calchou, p.353.

2. Reg. de Passelet, p.417.

3. Ibid. p.428.

4. Coulton, Five Centuries of Religion, II, p.474.

ratione delicti existere fori sui, sicque vocantes vos ad placita capitula et penitenciale forum sicut alios clericos seculares," such episcopal action will have no force "absque mandato sedis apostolice speciali.... eciam delicti ratione."¹ Elsewhere it is stated that the visitation of Cistercian houses is confined to members of the order;² and the bishop may not come to the monastery (i.e. uninvited) for the purpose of conferring orders, handling causes, or calling any public assembly; nor may he impede the regular election of the abbot, nor depose nor remove him who has been in office against the rules of the Cistercian order. Bishops, invited to consecrate a newly-elected abbot, are to be content with the form of expression used since the foundation of the order, so that abbots, in making their profession to the Bishop, will be bound to preserve their privileges and make no profession contrary to the Statutes of the Cistercians.³ Innocent IV, in 1253, granted to the Abbot of Citeaux and his co-abbots the privilege that inasmuch as monks of the Cistercian order from its inception, had been customarily ordained by bishops without examination, this practice would continue, except in cases of notorious crime or serious physical defect.⁴

Cluniac privileges likewise foster the desire for monastic immunity, and contain provisions similar to those of the Cistercians. Honorius IV, in 1285, issued a Bull to the Abbot and Convent of Cluny, which is transcribed in the charters of Paisley. It indicates episcopal infractions of typical Cluniac privileges -

"Ad synodos et conventus forenses ire compellunt, ad domos vestras causa ordines celebrandi, causas tractandi aliquas, conventus publicos convocandi et missa celebrandi, interdum accedunt, ab Abbate vel priore vestri Monasterii nullatenus invitati: a fratribus etiam Cluniacensis ordinis obedientiam et reverentiam exigere vel extorquere, ac in ipsos ubilibet commorantes jurisdictionem exercere, interdicti et excommunicationis sententias preferre in prioratibus et cellis eiusdem ordinis que nunc, sine abbati, Cluniacensi monasterio sunt subjecti, abbates ordinare infra parrochias locorum eidem monasterio subditorum absque Cluniacensis abbatis assensu, ecclesias et capellas construere, cimiteria benedicere, de vestris monachis et Monasteriis judicare, ad judicia sua eos invitos protrahere, ac pro controversiis vestris in parrochianos homines et servientes vestros adinadvertere presumantes...."⁵

1. Reg. de Neubottle, p.201.

2. Reg. de Neubottle, p.206. (1249); Lib. de Balmorinach, p.13. (1253).

3. Lib. de Balmorinach, pp.46-47. (Bull of Innocent IV),

4. Lib. de Balmorinach, p.55.

5. Reg. de Passelet, p.302.

Thus negatively is shown the extent to which episcopal interference was repelled by the Cluniac order. The use which the Cluniacs made of their immunities, carefully recorded in the charters of Paisley, is shown by a deed of 1368. From this, we learn that the Abbot and certain monks of Paisley declared, before the Bishop of Glasgow -

"Quod cum alias ipsi religiosi in prefati domini Episcopi presentia erant constituti, ab eis extentas ecclesiarum et capellarum suarum quas in diocese Glasguensi ipsi religiosi tenebant et possidebant, sub eorum juramento petebat ut de fructibus dictarum ecclesiarum sive capellarum ad subsidium de dicta diocesi pro solutione camere apostolice debitum, prout rectores et vicarii tam religiosi, quam seculares de beneficiis ecclesiasticis que in dicta diocesi optinent contribuunt, ita ipsi contribuant; ad quod juramentum dixerunt se non teneri nec (ad) illud prestandum per ipsum Episcopum ^{forse} coartari, pro eo quod erant de ordine Cluniacensi et quod ordo ille Cluniacensis cum suis memoris cujus unum se esse dicebant et clamabant quibusdam privilegiis papalibus et aliis in tantum est exemptus quod ad talia ^{juramenta} prestanda per ipsos diocesanos cogi non possit nec deberet prout ipsi parati erant ostendere...."¹

(2.) The exemption of monastic orders from episcopal authority had the negative effect of annulling the powers of the diocesan. But it had also the positive effect of setting up a rival authority within the monastic movement. Parent-houses or orders took the place of the bishop. Thus, the foundation-rights of Paisley are confirmed by the Abbot of Cluny and the Prior of Wenlock.² As instanced above, the exemptions of Cistercian and Cluniac houses found authoritative precedents in the exemptions of the parent-houses, whose privileges were the privileges of the order. A papal Bull of 1253 to the monastery of Balmerino states that faults on the part of the monks "were punished with suitable penance, both by the General Chapter of the order and by the chapters held daily in each monastery. This is stated as a reason why the monks should be exempted from the jurisdiction of the bishops."³

1. Reg. de Passelet, p.328.

2. Ibid. p.3. How complete was the subordination of Cluniac houses to the Mother-house of the order is shown by the fact that "Paisley was denied by the head of the order the privileges of abbatial government, until in 1245, Cluny yielded to the entreaties of the Bishop of Glasgow and other Scottish bishops at the Council of Lyons and consented to the election of an abbot." (Reg. de Passelet, Preface, p.v)

3. Campbell, Balmerino and its Abbey, p.78. Cf. C.P.R. Letters, I, p.205 (of England). "General inhibition to summon Cistercian abbots and convents in England or persons of their monasteries, to synods or public assemblies, save only pro fide, or to chapters, or the penitential court, without special mandate of the Apostolic See, even on account of crime; especially since any of the abbots is ready to punish excesses according to the statutes of the order."

Innocent IV, in a Bull of 1246, granted to the Premonstratensians of Dryburgh, the requested inhibition that bishops or their officials should not interdict or suspend their churches or regular clergy of these, without manifest and reasonable cause, "but if anything in regard to them requires correction, let it be brought to the hearing of the General Premonstratensian Chapter and amended there."¹

Further, individual monasteries, in certain instances, assert rights of jurisdiction in houses which have arisen as their offshoots. That this practice held good is shown by two declarations of the Abbot and Convent of Kelso. In 1178, they quitclaim from all subjection and obedience the abbot-elect of Arbroath, ² in 1191(?), the Abbot-elect of Lindores. ³ The monastery of Paisley in 1265, gained recognition of certain rights of jurisdiction over the house of Crossraguel, according to the agreement made between them and Duncan, Earl of Carrick, the patron of the younger monastery. Crossraguel will be exempted from subjection to Paisley, except only "in recognitione ordinis.... Monachi de Crosragmol in ordine et habitu et aliis regularibus observantiis domui de Passelet penitus conformentur, et.... abbas de Passelet qui pro tempore fuerit dictam domum de Crosragmol visitet semel per annum cum moderata familia et sine expensarum gravamine...."⁴ A safe-conduct was granted by Edward II (in 1318), at the request of the monastery of Holmcultram, to the Abbot of Melrose with two of the monks, to proceed to Holmcultram, in order to preside at the election of an abbot, "the monks being forbidden.... to choose their superior, except in the presence of the said Abbot of Melrose, their maternal house."⁵

(3.) The abbot of many monasteries were given quasi-episcopal powers, originally conferred for reasons of expediency, latterly sought as a special favour. They were empowered to perform certain functions of the bishop, and the grant to the abbot of certain houses that they might wear the mitre was sought after, probably on the ground that this privilege was the outward and visible sign of their quasi-episcopal powers. The Abbot of Dunfermline received the concession in 1245, at the request of the King of Scotland, that he might use the mitre and ring and other pontifical insignia, and confer on monks and clerks the two minor orders, namely those of usher and reader, and bless altar-cloths and other sacerdotal vestments.⁶ The use made of

1. Lib. de Dryburgh, pp.188-189.

2. Reg. de Aberbrothoc, I, p.8.

3. Chart of Lindores, p.285.

4. Reg. de Passelet, p.424. Cf. the reservation by St. Andrews Priory of the right of appointing the Prior of Lockleven, who shall answer to them for the observance of order. (Reg. St. And, p.121)

5. Morton, Monastic Annals, p.228.

6. Theiner, Vet. Mon. Hib. et Scot., p.44.

this indult is illustrated three years later by a mandate of Innocent IV, forbidding the abbot "to give pontifical benediction in the mass according to the custom of Scotland and elsewhere, to the people, when a bishop is present, or to give the two minor orders to persons not of his jurisdiction, notwithstanding the indult which he claims to have received."¹ In 1332, John XXII confirmed, at the request of the abbot, the abbatial privilege of giving the pontifical benediction, in the absence of the bishop, at mass and at table.²

A Bull of Innocent III, in 1203, exemplified the privileged position of Cistercian abbots. If the diocesan bishop refuses to bless the abbot submitted to him, "and to bestow the other things which belong to the episcopal office," it will be lawful for that abbot, if in priest's orders, to bless novices of the house, and exercise the other functions of his office,³ an example of immunity from the bishop's ordinary power which is paralleled elsewhere⁴ and in the Premonstratensian houses as well as the Cistercian. The order of Prémontré, closely linked to its parent-house, made use of a Bull of Innocent IV, directed to the abbot of the parent-monastery and his co-abbots, which specified that when any of their houses was bereft of an abbot, or when the election of the abbot had been irregular, it would come under the power and disposal of the "Father-Abbot; and the election would be made with his advice. If the abbot, presented to the bishop for his blessing, could not obtain it, he will nevertheless perform the duties of abbot according to the Rule, in supervising external matters and correcting the internal affairs of the house, until, by intervention of the General Chapter, or by the precept of the Pope, he obtains blessing.⁵

The correction of irregularities within monastic houses by their respective abbots, has, as its complement, the privilege that the abbot may grant absolution to offenders. There is a certain sameness in the statement of offences which have led to the excommunication of monks. Monks have come to blows among themselves or with other religious or seculars. The Rule against private property has been broken, and admissions obtained to the monastery by simony. Monks under censure have been admitted to holy orders and have celebrated mass. Having thus incurred excommunication, they cannot rightly be restored without appearance at the Curia. But as this, by removing them from supervision, may lead to further irregularities and vagabondage, the abbot is given absolutionary powers. The abbot of Dunfermline is empowered to dispense those who have amended, after two years' suspension from the right to

1. C.P.R., Letters, I, p.243, Theiner, p.50.

2. Theiner, p.252.

3. Reg. de Neubottle, p.182.

4. E.g. Lib. de Balmorinach, p.-6.

5. Lib. de Dryburgh, p.221.

celebrate mass.¹ The abbot of Balmerino (according to the privilege of Nicholas III, 1277-81) may absolve excommunicates "according to the form of the church in our stead."² In 1371, Gregory XI empowers the Abbot of Dryburgh to absolve the least guilty, on doing penance, those guilty of more serious offences to be sent to the papal court for absolution.³ The charters of Dryburgh contain also a Bull of Innocent IV (1246), relative to Premonstratensian canons serving parish churches, which ordains that bishops⁴ freely permit the recall of delinquent clergy to the cloister, to receive regular discipline, so that monastic obedience and the power of the abbot is not weakened.⁵

In these instances, can be detected the aim of the monastic movement to rule itself, to supply authoritative powers of supervision and regulation from its own resources, to maintain the regular organisation as parallel to but not interacting with the secular organisation, in so far as such interaction involved the acknowledgment of secular authority over religious houses. The regulars find means of dispensing altogether with the bishops as diocesans, and with them, in their capacity as ordinaries, as far as possible. This aim of conserving authority within the limits of the movement, the reduction of episcopal control to a minimum,⁶ and the use of the bishops as subservient to their purposes, was not only a menace to the Episcopate. It was a direct negation of their powers. Why was there no concerted assertion of episcopal authority against this annulment of their powers? The reason is plain. The religious had an effective means of escaping episcopal authority, and of eluding its enforcement. Their exemptions were derived directly from the supreme authority in the Church, the Pope, who is, ultimately, the decisive factor in the relations of bishops and monasteries.

The respective positions of the regular and secular organisations were, in theory, somewhat as follows. Both were dependent on the Pope, the one for its privileges, enabling the observance of the rule in a communal life, the other for the maintenance of the authority of the bishops over their diocesan clergy. The monks fulfilled a function which had as an end the salvation of their own souls. The bishops were entrusted with the oversight of an organisation dedicated to the salvation of the mass of mankind; but, in addition, they were authorised to supervise the life of the monasteries within their dioceses. This was in the nature of an intrusion into a sphere of activity other than the secular. Here was the basis of the monastic resentment against

1. Reg. de Dunfermelyn, p.170. (Bull of Gregory IX, 1231).

2. Lib. de Balmorinach, p.52.

3. Morton, Monastic Annals, p.297.

4. Archbishops in original.

5. Lib. de Dryburgh, p.209.

6. Alexander IV, granted to the Cistercian order a Bull "Contra dyocesanos qui petebant hospitalia et alia beneficia non ex gratia sed ex debito." (Reg. de Neubottle, p.200.)

the authority of the bishops. It broke down the exclusiveness of the monastic movement. The position between bishops and monks became still more complex when the monasteries were rector of appropriated parishes. But even in this matter, where the bishop was exercising his lawful authority in a secular sphere, he is regarded as an intruder.

If the parallel existence of the regular and secular organizations was impossible, and the regulars were apt to treat the secular Church as subservient to their ends, was some form of accommodation possible? Could the Pope not supply a useful means of adjustment between the rival claims of monasteries and bishops? He could have ~~been~~ so, but for the fact that neutrality or impartiality on the part of the Papacy was not possible. The Papacy was committed to the support of Monasticism. The regulars were the instruments of its policy, the accredited agents of the furtherance of papal aggrandisement. Their privileges supplied the means of advancing the power of the Vatican: as they stood for the centralization of papal power, they had everything to gain by the increase of papal authority and their exemptions were the outcome of its unrestricted use. They were thus in a position of strength which the bishops could not assail. In their litigation with seculars, it is noticable that the monks very frequently won, because they could produce irrefutable evidence of their privileges. In this, they were beyond the reach of episcopal control. The bishops were the servants of the Church, applying its canons to ecclesiastical government. But their very fealty to the Pope committed them to accept papal provisions which overrode their own authority, such as the provisions for the exemption of the religious. The Papacy, which was the positive force behind Monasticism, was at the same time the power which had a negative and limiting influence over the Episcopate in its dealings with the monks.

The partiality of the Papacy towards the religious exacerbated the strife of the religious with the secular authority. To some extent, however, we must admit it supplied a means of conciliation, by the custom of appointing 'auditors' to hear and decide disputed cases. Again, if the bishops had reasons for resentment against the religious, so likewise the religious had grievances against bishops, who in the desire to exert their powers, were unjust or extortionate; or the bishops, neglectful or unaware of injuries to religious houses, was recalled by the Pope to his duty as protector of the monasteries and their property. Honorius III ordered the bishops not to oppress the canons of St. Andrews nor to suspend or excommunicate their vicars but to protect them from all injury so that they may not be forced to appeal to Rome.¹ The same Pope in 1222, on the complaint of the Abbot and Convent of Newbattle, that the Bishop and chapter of St. Andrews do not execute justice on those who injure the monastery, letting a year pass before the

1. Reg. St. And. p. 37.

monks can get their rights, orders the bishop and chapter to observe the privileges and indulgences granted to Newbattle and to discharge the duties of their office towards those who infringe them.¹ Papal mandates frequently forbid infractions, on the part of the bishops, of the canon of the Lateran Council, which regulated the episcopal demands on the monastery, in the matter of hospitality and procurations.

The confusion arising out of the bishop's authority being overruled by the Pope, and the consequent negation of episcopal power is shown, for instance, by comparing two charters relating to the small Priory of Monymusk. In one (previously quoted) by the Bishop of Aberdeen, between 1199-1207, the provision is made that the canons "be subject to no house-moryield subjection to anyone but ourselves and our successors, as other religious houses.... ought to yield to their own bishops.." ² Between 1199 and 1216, Innocent III takes under the protection of the Apostolic See, the house and its possessions, "but specially the privileges and former liberties from the exaction of tithes and of the charges of bishops and their officials, "and in recognition of this protection, they are to pay two shillings yearly to the Vatican. ³ These charters are mutually contradictory. The papal privilege negates the bishop's assertion of authority.

The typical example of the elimination of episcopal authority is in the grant of the privilege of immediate subjection to the Holy See, and the taking of religious houses under its protection. The direct dependence of the religious houses on the Vatican was assumed by David I in the confirmation-charter of Dunfermline:

"Ab omni liberrimam tam secularis quam ecclesiastice potestatis subiectione et exactionis inquietudine permanere decernimus excepta sola et canonica obedientia que debet unaque matri sue per orbem ecclesia." ⁴

About the year 1165, Pope Alexander III declares that Kelso is the 'special daughter' of the Roman Church, ⁵ an opinion fortified by Innocent III, circa 1203, who confirmed the privilege of complete exemption from all episcopal jurisdiction, except that of the Holy See. ⁶ The latter pope granted a similar privilege to the Priory of St. Andrews. ⁷ Imbart de la Tour has noted the significant strengthening of the monastic organisation in France, through close union to the Holy See, and exemption from episcopal power. ⁸ The

1. C.P.R. Letters, I, p.88. 2. Reg. St. And. p.375. 3. Ibid.

4. Reg. de Dunfermelyn, p.4.

5. Morton, Monastic Annals, p.83. 6. Morton, Monastic Annals, p.85.

7. Reg. St. And. p.111.

8. "La suppression des abbés laïques, le rétablissement de la règle bénédictine, l'union étroite au Saint-Siège et l'exemption du pouvoir épiscopal, voilà les grands faits qui ont réussi à sauver le monachisme." (Les Elections Episcopales, p.72.)

same writer has described the movement in the tenth century which enhanced the power of the Papacy. A great number of monasteries placed themselves under the protection of the Pope: and thus the religious were handed over to his influence. ¹ In Scotland many houses, at their own request, were taken under the protection of the Apostolic See. In France, the cause of this desire for papal protection was definitely the absence of a strong central power in the monarchy, to which the religious houses had formerly been linked. This cause did not hold in Scotland to the same extent, and the protection of the Papacy was sought over and above that of the Crown. Thus Scone, ² in 1164, Dunfermline, ³ in 1212, Arbroath, ⁴ in 1220, were taken under papal protection. But the effect was similar to that which ensued in France. The dependence of the religious on the Pope was increased. The protection of the bishop became secondary to that of the Pope.

The use of religious as the agents of the policy and interests of the Papacy, as damaging to the status and authority of the bishops, is shown first of all in those instances in which regulars were employed to investigate the conduct of bishops and to enforce the Papal will regarding them. Thus, in a letter of Honorius III to William de Malvoisin, Bishop of St. Andrews, in the year 1220, it is mentioned that the Pope had given authority to the Abbot and Convent of Melrose, with the use of ecclesiastical censures and without power of appeal, to remedy abuses suffered by the Prior and canons of St. Andrews, at the hands of bishops and others. ⁵ In the previous year, the Abbots of Cupar, Scone and Dunfermline were empowered to enquire and report to the Pope anent charges brought by the Archdeacon and Chancellor of Moray against their bishop. ⁶ So also, in 1295, mandates of Boniface VIII to the Abbots of Kelso and Jedburgh and the Prior of Coldingham, empowered them "to warn and induce the Bishop of Glasgow and his official, Andrew de Kennedi, to make satisfaction within one month to.... the rector of Renfrew for his loss of tithes occasioned by their extortion." ⁷

The regulars, moreover, lent themselves to the furtherance of the policy of administrative centralization, pursued by the Papacy from the twelfth century onwards, and exemplified by the increase of reserved benefices, a system which encouraged the appointment of non-resident papal officials or agents, and deprived the bishops of their right of collation. The Abbot and Convent of Jedburgh are employed by Gregory IX, in 1240, to promote the induction of Master John de Civitate Antioca to a benefice, provided by papal mandate. It is noteworthy that the bishop refused

1. P. Imbart de la Tour, *Les Elections Episcopales*, p.310.

2. *Lib. de Scon*, p. 13. 3. *Reg. de Dunfermelyn*, p.162.

4. *Theiner, Vet. Mon. Hib.*, et *Scot.* p.15.

5. *Lyon, St. Andrews*, II, pp.326-327.

6. *C.P.R. Letters*, I, p.62.

7. *C.P.R. Letters*, I, p.562.

to admit the papal nominee.¹ The Abbot of Dunfermline is similarly mandated to give Peter, 'son of Ingebald, a Roman citizen,' the church of Grantully, in 1248, a proceeding opposed by the Bishop of Moray,² whose complaint along with his chapter to the Pope, in the same year, bearing that their church was burdened by the number of papal provision to benefices, resulted in a measure of respite.³

But the Papacy found an effective means of quashing episcopal opposition to the policy of centralization which brought about the reservation of benefices. Regulars were now promoted to vacant and reserved sees. As early as 1174, outside the era of reservations Jocelin, Abbot of Melrose, on his appointment to the See of Glasgow, received signal favour from the Papacy, as a member of the favoured Cistercian order.⁴ In the period when the reservation of sees had become common, towards the end of the thirteenth century, the appointment of regulars is frequent. In 1297, Andrew, Abbot of Cupar, was made Bishop of Caithness, by Papal provision, his predecessor having died "*ad civitatem Senensem*." ⁵ In 1301, Nicholas, Abbot of Arbroath, was appointed by the Pope to the See of Dunblane, after a disputed election.⁶ John, a Friar Preacher, was presented to the See of Glasgow in 1318, by the Pope, who declared the see reserved on account of the death of the former bishop at the Papal Court.⁷ Somewhat later, regulars were appointed to the Sees of Aberdeen and Argyle. Among the papal nominations to reserved sees, filled in the main by regulars or officials of the Curia, the proportion of regulars is notably large. The aim of these appointments to a secular office would appear to be that regulars made bishops would offer no opposition to papal policy, nor obstruct its incidence.

The use of religious as the instruments of papal diplomacy increased their isolation from secular authority. Secure in the support of the Papacy, they could flout the bishops. Towards the end of the period under review, is an illuminating encounter between the bishop of Moray and the Abbey of Arbroath, in 1371, which shows the culmination of the tendency to exalt the monastic dependence on the Pope rather than to acknowledge the status and authority of the Bishop. The arrogance of the monks appears in the fact that they sent a procurator, Andrew Ox, to summon the bishop to the papal

1. C.P.R. Letters, I, p.188.

2. C.P.R. Letters, I, p.258.

3. Reg. Episc. Morav. p.114.

4. He was consecrated at Clairvaux; obtained from Pope Alexander III, in 1176, the exemption of the Scottish Church from obedience to the Archbishop of York; obtained in 1182, from Lucius III, the absolution from church censure of William the Lion; and as Bishop of Glasgow, was exempted after 1175, by Pope Alexander III, from interdict, suspension of excommunication during his lifetime. (Reg. Episc. Glasg. I, pp.xxiv, 33, 34.)

5. Theiner, Vet Mon. pp.103-4.

6. Ibid. p.169

7. Ibid. p.202.

Court on a frivolous charge of oppressing the monastery. The bishop, whom the monastery accused of withholding a copy of the process instituted against them, took the opportunity of relating to the Pope the numerous abuses committed by the monks, not only towards himself, but in regard to the administration of parish churches.¹ The occasion of the bishop's process was that the monks "in contempt, disobedience and irreverence towards my ordinary jurisdiction, indeed towards that of the Holy See, under whose special protection the church of Moray is placed," instigated a raid by violent laymen on the house of the vicar of Inverness, which resulted in wanton damage. The tenor of the 'schedule' submitted by Andrew Ox, bears out only too faithfully the bishop's complaints of contempt, disobedience and irreverence, and reveals the irresponsible and anarchical influence of the religious in the diocese.

1. Reg. Episc. Morav. p.175.

Chapter IV.

We may now sum up briefly the conclusions to which the foregoing survey points.

The bishops sought to act as patrons with the right of authoritative control. The monks lowered episcopal authority and dislocated the system of diocesan government.

In the involved relations of bishops and regulars, the position of the latter is the more clear and definite. The bishops are denied the exercise of their nominal authority, and a free hand in the government of their dioceses according to their canonical rights. This is so, because they are more or less at the mercy of an organisation with which they found at length it was not possible to cope. It eluded their authority, because its position contained a factor over which they had no control, namely, the dependence of the religious on the supreme authority of the Papacy. In the end, Monasticism lowered episcopal prestige and power, by using the bishops' ordinary power as a convenience at their disposal, by dispensing with the bishop as diocesan, and in as far as possible. In general, the regulars were inclined to treat the bishops as subservient to their ends rather than as authorities. It was impossible for the bishops to maintain even the semblance of enforcing the authority of the canons. They were overborne in this by the system of exemptions, and reduced to a policy of conciliation. Distracted in a greater degree by State concerns, they could devise no adequate way of dominating an organisation that had the support both of Crown and Pope. Episcopal action against traitorous religious was effective because it had the support of the Crown when the Papacy counted for little in Scotland. In general, the regulars, by limiting the sphere of effective episcopal control, were a menace to the bishops.

Again, they intruded on episcopal functions by setting up a rival authority. The ordinary powers of the bishops were usurped by parent-houses, General Chapters and Abbots. While the monastic organisation remained, each diocese contained an element which was irreconcilable with the claims of the diocesan to maintain his rights and exert his authority. Monasticism remained largely outwith the bishops' control, and yet intruded into the secular sphere of the parishes, where it remained an elusive factor, not amenable to the exercise of episcopal oversight, immune from episcopal censures.

Lastly, they were used by the Papacy as a foil to the Secular Church; they were played off against the Scottish bishops, seeking to maintain a form of ecclesiastical autonomy in Scotland. In humiliating the Episcopate, they were the instruments of the policy of the Vatican; and were enabled to fulfil this doubtful function by the exemptions conferred upon them. The presence of regulars in Scotland was a continual threat to the autonomy and effectiveness of the Scottish Episcopate.

Chapter V. Regulars and the Cathedral Chapters.

The cathedrals of Scotland, in the form which we may regard as normal during the medieval period, were a department of the Secular Church. With two exceptions (St. Andrews and Whitherne), they were corporations of secular canons, bound to the observance of the cathedral statutes, permitted to hold and use private property and residing in separate houses. Individually, the canons were maintained from the revenues of their respective prebends, which were usually parish churches, held by them as rectors, and served by vicars. Corporately, the canons formed the cathedral chapter, responsible for the maintenance of divine service, administering the property of the cathedral, which was held for the common good by the corporation of canons.

The distinctive privilege of the cathedral chapter was its right to elect the bishop of the diocese. This, according to Dowden was "the ordinary and canonical rule to be followed in the appointment of bishops."¹ The king's permission was obtained to proceed with an episcopal election and his assent sought to the nomination made. Finally, the Pope's confirmation was necessary. There are exceptions to the exclusive exercise of this right by the chapter. The Chronicle of Melrose relates that in 1174, Jocelin, Abbot of Melrose, was elected Bishop of Glasgow, "a clero, a populo exigente, et rege ipso assentiente."² In 1211,

"Dilecti filii A. archidiaconus et capitulum ecclesie Dunkeldensis et abbas de Scona, prior de Insula et universus clerus Dunkeldensis.... Johannem archidiaconum Laudonie.... in episcopum sibi concorditer eligerunt...."³

According to the Chronicle of Melrose, in 1215, Gilbert, master of the novices of Melrose, was elected to the See of Galloway "as well by the clergy as by the entire people of Galloway, with the exception of the Prior and Convent of Whitherne."⁴ Election by the clergy of the "city and diocese of Argyle" along with the chapter of that diocese, was claimed to the canonical by Angus Congall, a claimant to the see in the fourteenth century.⁵

It is somewhat difficult to assign a precise value to the Chronicler's statement of the part of the people in episcopal elections. But there is proof of the statement that the diocesan clergy did take part in episcopal elections. In the diocese of Whitherne,

1. Medieval Church in Scotland, p.23.

2. Quoted, Dowden, op. cit. p.20.

3. Lawrie, Annals, p.373. (from an Epistle of Innocent III)

4. Dowden, Med. Church. p.39.

5. Dowden, op. cit. p.37.

the election of Gilbert, mentioned above, was actually one of two elections, one made by the Prior and Convent of Whitherne, who were the chapter, and one by the diocesan clergy, the latter being acceptable to the Scottish King; and the right of the diocesan clergy as opposed to the right of the chapter of regulars was the point at issue in the subsequent dispute over the validity of Gilbert's election.¹

But for our present consideration, the most important of the foregoing instances is the election of the Bishop of Dunkeld, in 1211. Here the electing body is composed of the Chapter, the Abbot of Scone, and the Prior of Inchaffray,² and the Clergy of the diocese. The notable point is the presence of regulars among the diocesan clergy. The monasteries within the diocese are represented by their heads at the election of the bishop.

Was this an intrusion? It is more likely to be a simple survival, as is the presence of the clergy and (more vaguely) the laity at episcopal elections. The regulars were present, primarily, as part of the diocesan clergy electing their head. They are not part of the chapter. In the Church of France, whose institutions were developed while those of the Scottish Church were still ill-defined, the regular clergy had a share in the episcopal elections of certain dioceses, and their presence was a cause of strife.

"Si l'élément laïque disparut sans opposer de résistance, il n'en fut pas de même des ordres religieux. Dès la fin du XI^e siècle, des luttes très vives s'engagent dans certains évêchés entre les deux parties du corps électoral, les moines voulant être appelés à l'élection, les chanoines être seuls à les diriger."³ Innocent II, in 1139, decreed as follows: "We forbid under pain of anathema, that the canons exclude the religious, but we desire that by their advice, they elect a person honest and capable. If the election takes place with the exclusion of these (the religious), if it is made without their consent and approval, let it be null and void."⁴ The only hint of conflict between regulars and seculars in regard to an episcopal election in Scotland, is in the case of Whitherne above-mentioned. There, however, the regulars were the chapter, which had not been consulted, and the seculars, the diocesan clergy, had made the election. In the case of Dunkeld, there is no antagonism suggested. It seems simply a survival of an earlier form of election than that conducted merely by the

1. Dowden, Med. Church, p.40; Archbishop Gray's Register (Surtees Society), pp.170-173.

2. It is worth noting that in the period 1211-1214, 'Elphin, Prior of Inchaffray' figures among the diocesan clergy of Dunblane, assenting along with the bishop to an agreement made between that prelate and the monastery of Lindores. (Chart. of Lindores, p.45.)

3. P. Imbart de la Tour, Les Elections Episcopales, p.525.)

4. Quoted, op. cit. p.526.

clergy of the chapter: whereas there are instances in this period of the chapter being composed, in whole or in part, of regulars.

Assuming that in Scotland (as opposed to England, where many chapters were composed of regulars) the cathedral chapter was normally made up of secular canons, among whom the Dean, Chancellor, Precentor and Treasurer were secular dignitaries, we have to account for the presence of regular clergy in certain chapters. Dowden notes the choice of a chapter of secular canons by the Bishop of Aberdeen, when a Bull of Adrian IV (1157) gave him authority to choose whether his chapter was to consist of "monks or (secular) canons."¹ On the other hand, the chapter of St. Andrews was formed of Canons Regular of the Augustinian order, introduced and endowed by Bishop Robert in 1144², and having their endowments with additional rights confirmed by the King, David I, 3 and by the Pope, Lucius II about the same time.⁴ The instance of Whitherne, although the bishop accepted the supremacy of York, is similar, in that the chapter was composed of Premonstratensian canons.

The canons of St. Andrews, as the chapter of the cathedral, had the right to elect the bishop. In 1147, Eugenius III gave the right of election to the Prior and canons in place of the Keledei.⁵ Therein lies the explanation of the presence of a regular chapter at St. Andrews. The Augustinian canons were introduced as a means of ousting the Keledei. Their establishment as an order of Roman regulars is traceable to the policy of supplanting the Celtic Church and its institutions, a policy supported both by Crown and Papacy. Prima facie, the existence of Premonstratensian canons at the old Celtic foundation of Whitherne would admit of a similar explanation, although there is no definite trace of Celtic Monachism surviving there into the medieval period.

The Church of France, typical of medieval Christendom, has, as has been shown, instances of the regular clergy sharing in the election of the bishops. But still more significant is the fact that in the eleventh century, abbots are found in the chapters.

"Ces faits sont isolés; il n'en fut pas de même au xii^e siècle. Dans presque tous les diocèses, les monastères acquirent des prébendes et des moines firent partie du conseil épiscopal. Ce mouvement fut encore accéléré par la papauté, qui se montra très favorable à cette représentation des monastères dans les chapitres. Un très grand nombre de ces prébendes furent concédées sur la demande des papes, d'autres concessions furent confirmées par eux; ils restèrent ainsi fidèles à la tradition qui leur faisait chercher dans le corps monastique un contrepois salutaire à l'influence du clergé séculier." ⁶

1. Medieval Church in Scotland, p.59, from Reg. Episc. Aberd. I, 6.

2. Lawrie, E.S.C. p.124.

3. Do. p.126.

4. Do. p.129.

5. Lawrie, E.S.C. p.143. In 1255, Alexander IV expressly declared that the admission of two Culdees as electors of Bishop Gamelin, at the instance of the Crown, would create no prejudice to the right of the canons. (Theiner, Vet. Mon. p.67.)

6. P. Imbart de la Tour, Les Elections Episcopales, p.527.

The movement towards obtaining a footing for regulars in cathedral chapters did not attain in Scotland such dimensions as in France, nor was it so apparently fostered as part of papal policy. But in three Scottish dioceses, Dunblane, Ross and Caithness, regular clergy had obtained a place in the cathedral chapters: their efforts to maintain that position indicate that it was in their eyes desirable.

The instance of Dunblane is the most conspicuous and complex. A mandate of Gregory IX, of 11th June, 1237, to the Bishops of Glasgow and Dunkeld, on the proposition of the Bishop of Dunblane, described the state of that see, in terms which are repeated in subsequent documents." Nearly all the goods of that church, after a voidance of the see for more than a hundred years, are occupied by regulars, and the rest since alienated by successive bishops. The see has again been void for ten years. The present bishop has no place to lay his head, there is no chapter, and but one rural chaplain in a church without a roof." The bishops above-mentioned "are to visit the church, if it can be done without grave scandal, to assign to the bishop a fourth of the tithes of all parish churches in his diocese, so that he may assign some to the dean and canons to be appointed by the above Bishops of Glasgow and Dunkeld. If not, the fourth part of the said tithes held by seculars being assigned to the bishop, the see is to be transferred to the monastery of the canons regular of St. John, in the said diocese: the canons for the future having power to elect the bishop."¹

The immediate result of this mandate, when broached by the bishops, was an extremely significant controversy with certain religious houses. The suggestion that Inchaffray should become, like St. Andrews and Whitherne, a chapter of regular canons, was not acted upon, that monastery being embroiled, with two others, on a different issue, namely, that of the assignation of a fourth part of the revenues of all parish churches towards the re-establishment of a diocesan income. For this directly affected the revenues of the monasteries, in respect of parish churches held by them. The bishops rejected the alternative proposal, coupled with the transference of the see to Inchaffray, that only churches held by seculars should be mulcted. But an inlet was incidentally provided by which the regulars gained a footing in the reconstituted cathedral chapter. We may examine separately the negotiations with the monasteries concerned, viz. Cambuskenneth, Inchaffray and Arbroath.

Letters of William, Bishop of Glasgow, and Galfrid, Bishop of Dunkeld, under the date of 29th January, 1239, relate that the Abbot and convent of Cambuskenneth having opposed the claim made by Clement, Bishop of Dunblane, in terms of the papal letters, to the

1. C.P.R. Letters, I, p.163.

fourth part of the tithes of all the parish churches in his diocese, both parties submitted themselves to the decision of the above-mentioned bishops, both in respect to the arrangement of the church of Dunblane, and to the fourth of the tithes and the ordering of their churches in the diocese, namely, Kincardine, Tullibody and Tillicultry, which were of small revenue, and easily served. The bishops in order to avoid scandal between the Bishop of Dunblane and the Abbot of Cambuskenneth, ordained that the abbot and convent should find four merks yearly for their vicar in the church of Dunblane and that the abbot and his successors should be canons in that church. The abbot and his successors are to pay a further four merks to the church of Dunblane and the bishop is to have the disposal of that sum. They are freed from the payment of the fourth, and allowed to institute chaplains instead of vicars in the churches of Kincardine, Tullibody, and Tillicultry.¹

The point of this transaction seems clear. The bishop, to remedy the circumstances of a needy diocese, had chosen the alternative which affected the monasteries most closely. They were in a position to drive a good bargain. The price of their subscription to the needs of the see was a position of influence in the cathedral chapter.²

The terms obtained by Inchaffray were made under similar circumstances (circa 1238, confirmed by Innocent IV, in 1250). "The decision of the Bishops of Glasgow and Dunkeld was that Inchaffray should every year pay twenty merks for one 'dignity' and ten merks for one prebend to be erected anew in the cathedral church of Dunblane; and that in return the abbey should be freed from the payment of the fourth part of the tithes of all its churches. But because, by this ordinance, the abbey seemed to be overburdened in the payment of such money, the two bishops made a modest assessment of the vicarage of certain churches and ordained that certain other churches should be served not by vicars but by suitable chaplains."³ About the same time, the Abbey of Arbroath obtained its particular compromise. The abbot and convent give up their rights in the altarage of Abernethy with its pertinents to the jurisdiction and disposition of the Bishop of Dunblane, who, from the goods of that altarage, will provide for the service of the church of Abernethy, will be responsible for all obligations on that church affecting

1. Cart. of Cambuskenneth, p.364.

2. It may be noted that in 1192-1193, differences arose between the Bishop and the Abbot of Cambuskenneth, over alleged injuries (removing domestic animals belonging to the Abbot) by the Bishop. The Abbot obtained the Bishop's excommunication. Robert III, who was led to act in the controversy, was driven to safeguard himself against papal censure, by declaring that the abbot had not brought the bishop before him in his (Robert's) judicial capacity. (Cart. of Cambuskenneth, Introd. pp.xxvi-xxviii).

3. Inchaffray Charters, p.207.

himself and his officials, and besides, will supply from the same altarage of Abernethy, a vicar in the Cathedral of Dunblane, who will serve in the name of the abbey and supply their place in the cathedral; and to preserve the liberty of the church of Abernethy, it will be held as a prebend and canonry of Dunblane. The Abbot of Arbroath will be a canon and installed in that church, a toft where he can have a manse being assigned to him among the canons, with the other liberties conceded to canons....¹

The upshot of these concessions to the regular clergy is seen in a Bull of Boniface VIII in 1296, which describes an election to that see. The chapter electing includes "Thomas of Inchaffray, Henry of Arbroath, and Patrick of Cambuskenneth, abbots of these monasteries, since the Abbot of Inchaffray obtained the Precentorship, the other two abbots canonries and prebends in the said church by reason of the said monasteries," along with the dean, archdeacon, chancellor, treasurer and two other canons.²

It is important to note that other dioceses, situated somewhat similarly to Dunblane, included at least one regular in their chapters. The diocese of Ross, in 1235, was poverty-stricken. In view of the Bishop's complaint that owing to the smallness of the prebends, the four canons who constituted the chapter could not reside, Gregory IX granted in the above year, that the existing prebends should be augmented and new prebends instituted.³ A letter of John XXII in 1325, directed to the Chancellor of Ross, reveals the complaint of the Abbot and Convent of Kinloss against Thomas, Bishop of Ross, who had deprived Henry, the late Abbot of Kinloss, of his right as a canon of the Church of Ross, and of a prebend in it. The Abbots of Kinloss, it is claimed, have from time immemorial held a prebend and received its revenues.

"Vocem in capitulo ut canonici eiusdem ecclesie cum in eadem ecclesia electiones tam Episcoporum quam aliorum prelatorum eiusdem ecclesie pro tempore a Capitulo eiusdem ecclesie inibi celebrate fuerunt habuisse noscuntur et ad omnes tractatus eorundem Capituli.... admissi fuerunt a tempore supradicto...."⁴

"Between 1223 and 1245, the Abbot of Scone was recognised if not then first instituted as a canon of Cathnes with the church of Kelduninach (Kildonam) for his prebend, being bound according to Bishop Gilbert's constitution, to serve in the cathedral church by a vicar and in his prebendal church by a qualified priest, but not bound to reside in either."⁵ The see of Caithness up to the episcopate of Gilbert (1223 onwards) had been extremely disorganised. Gilbert's predecessor, Adam, was burned to death as the outcome of a dispute over episcopal dues. The circumstances of the cathedral church were much like those of Dunblane. "There was but a single

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1. Reg. de Aberbrothoc, I, p.177.
 2. Theiner, Vet. Mon. Hib. et Scot. p.162.
 3. Do. p.32.
 4. Stuart, Carte Abbacie de Kinlos, p.120.
 5. Origines Parochiales, II, part.II, p.622.

priest ministering the cathedral church both on account of the poverty of the place and by reason of frequent hostilities."¹ In the chapter, as reorganised by Gilbert, the Abbot of Scone was assigned a prebend, and he alone was exempt from the strict rule of residence imposed on the canons.² The church of Kildonan was held by the canons of Scone about the year 1223, and the connection which existed between Scone and Caithness, evidenced by the attestation of charters of Scone by the Bishop of Caithness before 1185,³ and the safe-conduct granted by King Alexander II to the abbot's ship when visiting Moray and Caithness ⁴ may point to its appropriation at an earlier date. In any case, the possession of a parish church within the diocese, and the reorganisation of the chapter provided the opportunity for the entrance of the abbot into a canonry.

The instances of regulars in cathedral chapters, detailed above, are definitely to be regarded as intrusions of the regular clergy into a sphere which was distinctly secular. The weakness of the diocesan organisations of Dunblane, Ross and Caithness gave the regulars their opportunity. This is plainly indicated in the bargains obtained by the monasteries which were represented in the chapter of Dunblane; and it is not a rash inference to conclude that the prebend held by the Abbot of Kinloss was obtained while the diocese of Ross was still undeveloped. The complaint of that monastery indicates that when the chapter had been more satisfactorily organised and endowed, an attempt was made to oust the representative of the regulars.

What was the attraction for the regular clergy of a position in a cathedral chapter? It was disadvantageous to the cathedral, since the holding of a canonry by a regular inevitably meant non-residence. In respect of the regulars, their possession of prebendal revenues as individuals, was a breach of the monastic rule against private property. The incentive is probably to be sought, not so much in the acquisition of prebendal revenues, as in the influence in secular affairs gained by holding a secular office. The 'voice in the chapter' and (above all) the share in episcopal elections, lamented by the monastery of Kinloss, was the allurements of the canonries. How important these privileges seemed is signified by the payments made to obtain them in Dunblane.

Why should the monasteries desire a say in the election of bishops? There is no absolute indication that they acted in the interests of the Papacy. The likelihood is that they were actuated by considerations of their own interest, gaining in the deliberations of the chapter, intimate knowledge of diocesan affairs, asserting in the election of bishops, their predilections in support of candidates favourable to themselves.⁵ In the Church of France, the abbots who

1. Charter of Gilbert, quoted Orig. Paroch. II, Part II, p.601.

2. Orig. Paroch. II, Part II, p.602.

3 Lib. de Scon, pp.19,33.

4. Lib. de Scon, p.45.

5. Dowden Notes: "Inchaffray gave one bishop, Arbroath gave two bishops to Dunblane." (Inchaffray Charters, introd. p.xl.)

took part in the election of bishops, did so on the strength of their advisory powers. Imbart de la Tour declares, for instance, that those of the order of Cluny had the greatest authority.¹ There is no reason to suppose that they fulfilled any such functions in the Scottish chapters in which they figured. The influence of the monasteries was brought to bear by them not only in the election of bishops, but in the election of the subordinate ecclesiastical dignitaries.

The place of the regulars in the chapters is an instance of their policy of 'privilege without responsibility', in exerting a secular function and obtaining its resultant advantages without owning the corresponding obligations of furthering the welfare of the secular organisation. They maintained their exclusiveness, as is well illustrated by the contrast between their attitude towards episcopal elections, and their position in regard to episcopal interference in the election of abbots. It was, for instance, a privilege of Kinloss conferred by the Pope soon after the foundation of that house.-

"Sancimus ne episcopus vel aliqua secularis persona.... regularem et canonicam electionem abbatis vestri umquam impediunt nec de removendo ac deponendo eo qui pro tempore fuerit...." ²

The presence of regulars within the chapters of Dunblane, Ross and Caithness is an example of the deliberate intrusion of Monasticism into the province of the Secular Church. Paradoxically, where regulars had complete control of the chapter, e.g. St. Andrews, they do not figure as intruders. The policy of intrusion is manifested in the instances where their power was more than partial but acquired of design.

1. Les Elections Episcopales, p.519. "De tous ces ordres, c'est encore celui de Cluny, dont l'autorité est la plus grande, dont les conseils sont le mieux écoutés."

2. Carte Abbacie de Kinlos, p.106.

Chapter VI. The Regulars and the Parish Clergy.

There remains to be discussed the influence of the religious in the sphere which was most distinctively that of the secular clergy, viz. the parish churches. Originally, the regular clergy had no parochial responsibilities. Only with such an order as the Premonstratensians, of comparatively late origin, was provision made for the service by regulars of the cures appertaining to their house. The 'cure of souls' was the vocation of the secular cleric, as the life of the cloister, the observance of the rule within the monastic community was the vocation of the religious. But the need for revenues brought the monasteries into contact with the sphere of work of the secular clergy. For the appropriation of parish churches, with their emoluments, to religious houses, placed the monasteries in the position of secular rectors, laid the responsibility upon them of providing for the service of the cure, and made them thus a factor of considerable influence in the ministration of religion to the laity. The appropriation of parish churches brought the religious houses into special relations with the bishop. It likewise created a number of problems arising out of the relations of the monasteries and the parish priests.

The characteristics of a parish, as a unit of secular activity, may be specified under the following heads -

(1.) It implied a patron. The origin of parishes in Scotland is at least partially due to the introduction of the Feudal System, which made the manor the unit of land tenure. The parish in one aspect, was, as Cosmo Innes has said, "the manor tithed to the church". One of the differentiae of a parish was its 'circumscription.' The boundaries of the old parishes (i.e. those not originated through division, or formed from a local chapel) were probably co-extensive with the manor. The land which was territorially the manorial holding, was ecclesiastically the parish.

The endowment of a church within the manor, for the landowner, his tenants and serfs was the origin of the patronage of the laity. The customary 'ploughgate', with which the church was endowed, furnished in the first instance the support of the priest. In this, a bond was created between the landowner and the priest. The landowner became the patron of the benefice. He and his heirs had the dual privilege of protecting the church and nominating its incumbent. Having endowed the church, the lord of the manor reserved the right of choosing its priest, an application of the principle of 'election',² feudal in origin, and applied by the Church conspicuously in the appointment of bishops. The patron, having made his choice, w s

1. Origines Parochiales, I, Preface. p.xxvii.

2. P. Imbart de la Tour, Les Paroisses Rurales, p.85.

under obligation to present his nominee to the bishop for investiture into the benefice.

(2.) A parish implied a parish priest, whose duty was the cure of souls within the bounds of the parish,¹ who was in holy orders and resided in his cure.² "Let him that has a parish church hereafter serve it in his own persons," says a Synodal Statute of Aberdeen, in the thirteenth century, "in that (holy) order which the cure of that particular church requires, unless he have already a vicar canonically instituted in the same."³ The right of the rector to receive the revenues of the benefice followed on his nomination by the patron, and his subsequent approval and collation by the bishop; if he worked the parish by a vicar, the vicar must have sufficient maintenance, ten marks being declared the minimum stipend of a vicar according to a General Statute of the thirteenth century.⁴ Security of tenure was assumed, except in cases of negligence or disorderly conduct. The rectorial revenues, originally proceeding from an endowment of land, were supplemented by the payment of tithes (at first a voluntary contribution to the clergy, but made obligatory by the edicts of successive Popes and enforced in Scotland by royal statute)⁵ as well as the customary offerings. He received, that is, the whole income of the benefice. Again, the parish clergy were under the direct supervision of the bishop and his archdeacon or rural dean, owing the bishop canonical obedience. The bishop supervised the parish churches by means of visitation, when the payment of procurations by the holder of the cure was a recognition of the bishop's authority and probably a commuted form of the expense of the bishop's entertainment on visitation. Other episcopal dues were paid in recognition of the bishop's superiority, e.g. synodals. The aim of preserving a decent maintenance for vicars was that they might be enabled to meet the obligations for payment of episcopal dues. Thus the Secular Church sought to provide for the religious needs of the people by resident priests duly supervised and provided with adequate income. But the system remained ideal. The very points on which an efficient priesthood depended, e.g. ordination, residence, sufficient maintenance, were those which are dwelt on in the Statutes of the Church as persistently neglected.

1. Patrick, Statutes, p.56.

2. Do. p.60. The penalty for non-residence is specified at ten marks for a rector, one hundred shillings for a vicar.

3. Patrick Statutes, p.43.

4. Do. p.11.

5. See Supra, p.7.

(3.) A parish presupposed a church: "We further ordain", says a Thirteenth Century Statute of the Provincial Council, "that in accordance with the means of the parishioners churches shall be built of stone by the parishioners themselves (referring to the parishioners' duty to maintain the nave), and their chancels by the rectors themselves: and shall afterwards be consecrated and adorned with the proper ornaments, books and vessels and put into proper condition."¹ The Constitutions of de Bernham (1242) enforce the rectorial duties of keeping the chancel in repair, and the provision of vestments, books and lights by specifying the penalty of suspension of stipend for default.² The rights of the parish churches are safeguarded by the prohibition of the building of chapels and the celebration of mass 'in private and dishonourable places' without the diocesan's consent.³

Associated with the church is the manse. "We likewise ordain," says another Statute, "that every church shall have a manse near the church, in which the bishop or archdeacon can be comfortably accommodated, and we decree that such manse must be made within the year, at the cost as well of the parsons as of the vicars in proportion to their incomes from the parish. But the maintenance of the building pertains to the vicar since he has the use and accommodation of them and to this let him be constrained by sequestration of the fruits of the churches."⁴ The existence of a manse had a twofold significance. It provided the means of fulfilling the obligation of residence: it facilitated the visitation of the bishop and archdeacon.

Another adjunct of the church is its churchyard, to be enclosed as far as the chancel extends by the rector, the remainder by the parishioners.⁶

(4.) Lastly the parishioners were those on whose behalf the church existed. Their duty to maintain the nave of the church and part of the churchyard has been noted: the sanction of this obligation was the use of ecclesiastical censure. Again, they were required to pay tithes, to make the customary offerings, notably the oblations or offerings at mass.

The above sketch of the characteristics of a parish represents the parish as it ought to have been, if the system under which the secular church was organised had functioned properly; it does not represent the actual condition of Scottish parishes in the medieval period. Parishes arose in the reign of David I, contemporaneously

1. Patrick, Statutes, p.10. 2. Patrick, Statutes, pp.57-58.

3. Do. p.10. 4. Do. p.12.

5. In the 14th Century Synodal Statutes of St. Andrews occurs the following; "whereas by reason of the meanness of the houses, we cannot be entertained in the benefices within our diocese, and in consequence cannot perform our official visitation or discharge the duties incumbent on us in virtue of that office; we have decreed that every holder of a benefice shall against the next visitation make arrangements for building (a manse) according to the revenue of his benefice so that we may, if need by, be accommodated therein; and this under a fine of a hundred shillings on every (defaulter). (Patrick, Statutes p.68.)

6. Patrick, Statutes, p.57.

with the development of the Feudal System in Scotland. The secular church remained for long in a state of unequal development. Diocesan episcopacy took some time to become authoritative and efficient. The Roman institutions were new and unfamiliar to the laity; and the tardy development of the parish churches is evidenced by the fact that in the episcopate of David de Bernham (1239-43), many parish churches required dedication. It was significant, therefore, for the development of the secular church, that even in the period when the parochial system was recently established, the custom of appropriating churches to the religious houses began. This was, indeed, the most usual method by which a monastery was endowed with revenues. It gained a parish church, according to the usual phrase, in proprios usus.¹ Thus, almost at the inception of the parochial system, the monasteries became an influential factor in its development; and the relations between the monasteries and the parish churches were not concerned with spiritual issues, but based on considerations of revenue.

We may note the effect of the appropriations of parish churches to religious houses on each of the constituent items of the parish, already enumerated -

(1.) Patronage. When a parish church was appropriated, the monastery became rector of the parish. But inasmuch as the monastery was a continuous corporation, it became perpetual rector and the patronage of the benefice ipso facto expired. The religious received the revenues of the benefice, and maintained the service of the cure by deputy, namely, by a vicar of their own appointment, at a stipend apportioned by them. There is some evidence that landowners did not acquiesce in the lapse of patronage, perhaps on the grounds that as a religious house had technically no secular function, it was rector only in so far as it drew the rectorial revenues as a means of endowment, but had no status within the secular church. Thus in 1262, the Bishop of Aberdeen announced the settlement of a dispute between Philip de Melgdrum and his wife, on the one hand, and the Abbey of Arbroath, on the other, concerning the church of Buthelny, which the abbey claimed to have obtained 'canonice in proprios usus.' The Bishop ordains that the rectory of that church should be held in proprios usus by the monastery, excepting certain tithes which are reserved; that Philip, on the death of the present

1. See Appendix, p. 132.

vicar (presumably appointed by Arbroath) should present a suitable man to the bishop, for institution to the altarage of the church of Buthelny, in the name of the vicarage, and have that right of presentation in perpetuity. (The reserved tithes constituted the altarage). The vicar, so instituted, is to act as the vicar of the monastery. The present vicar will, when possible, take over the vicarage so constituted. Thereafter de Melgdrum and his heirs will present to the vicarage.¹ This was clearly a compromise, to cover the doubtful claim of the monastery to the rectory, the equally doubtful claim of the knight to the patronage. But the fact that the layman obtained the right of presentation to the vicarage would seem to indicate a prevalent notion that a grant in usus proprios did not necessarily eliminate the ius patronatus of the local landowner.

There are, however, frequent examples of the gift of advowsons to religious houses. Monasteries, that is, were sometimes patrons of benefices which they did not hold in usus proprios. In 1264, the Premonstratensians of Holywood are the alleged patrons of the church of Teothocalde.² In 1329, the monastery of Kilwinning is given in proprios usus the churches of Kilmarnock and Beith, of which it had formerly the presentation of vicars.³ The monastery of Inchaffray, in 1287, protested against the appointment to the vicarage of Strugeith, by the Bishop of Dunblane, on the grounds that "by the bounty of former Earls of Strathearn, the grant of Bishops of Dunblane and the special confirmation of the Chapter of Dunblane, they were the true patrons and that the right of presenting to the vicarage belonged to them."⁴ Why should the possession of the advowson of parish churches be thus desirable? Many examples show that patronage was the first step towards possession in proprios usus. It was a form of reservation, by which the religious obtained a footing in a parish church.

As early as 1190, Innocent III ordered the Bishop of St. Andrews to restrain monks and canons regular from appropriating to their own use, churches to which they have the presentation, unless such churches are exempt from his jurisdiction.⁵ An instance from the charters of Dryburgh illustrates the process of conversion from simple patronage to full possession. In 1170, Radulphus de Campania gave the ius patronatus of the church of Worgis to the canons of Dryburgh.⁶ About 1240, a charter of Gilbert, Bishop of Galloway, declares -

1. Reg. De Aberbrothoc, I, p.192. A similar case is given, op. cit. I, p.207, on the advowson of the church of Inverugy.

2. C.P.R. Letters, I, p.413.

3. Theiner, Vet. Mon. Hib. et Scot. p.248.

4. Inchaffray Charters, p.223.

5. C.P.R. Letters, I, p.5.

6. Lib. de Dryburgh, p.49.

"Sciatis me concessisse.... ecclesiam Sancti Nicholayi de Worgis cum omnibus pertinentibus.... concedimus.... ut perpetuo a decessu Wilelmi de Gemliston clerici eandem ecclesiam ad presentationem abbatis et dictorum canonicorum possidentis liceat eis libere de proventibus ipsius ecclesie ad utilitatem suam et ecclesie sue sicut sibi melius expedire viderint disponere et eosdem proventus in usus proprios convertere et possidere salva in eadem vicaria etc...."1

In 1351, a Bull of John XXII mentions the request of the Abbot and Canons of Holyrood, who have the patronage of the church of Crawford, to have that church made over to them completely.² In the fourteenth Century, there is evidence of the assumption that the gift of patronage was a means to complete appropriation. Thus a charter of the Earl of Fife (confirmed by David II, 31st July, 1359), gives to Lindores, "all the right of patronage which we and our ancestors, our heirs and successors whomsoever, have, had, or can have in the church of Auchtermuchty." Further, on the death or resignation of Alexander de Camboch, rector of that church, the monastery will have the privilege of presenting an incumbent to the bishop "eodem jure et titulo quibus nos et antecessores.... presentavimus," even before they had obtained the church in usus proprios. But that is the ultimate aim. "Et si eandem ecclesiam in usus proprios convertendam aliquo tempore... impetrare valuerint nos....(nichil juris) seu clamii in dicta ecclesia faciemus...."3 The aim of patronage is possession. A charter of Robert I to Arbroath, in 1321, appears, indeed to identify patronage and possession. Giving that house the "jus patronatus or advowson" of the church of Kirkmahoe, the charter proceeds -

"Tenendam et habendam dictis monachis et eorum monasterio in perpetuum in liberam puram et perpetuam elemosinam cum terris redditibus obventionibus possessionibus rectitudinibus et omnibus aliis libertatibus commoditatibus aysiaments et iustis pertinentiis suis."4

These words apply to possession rather than patronage. The assumption is that patronage means possession.⁵

The desire of the religious to obtain the ius patronatus is evidence of an intrusive policy of an extensive kind. Apart from its significant indication of the mercenary attitude of the religious towards the parish churches, as possible sources of revenue, the acquiring of patronage made the religious houses arbiters of the service of the cure, and placed the secular priesthood at their mercy. The exercise of their patronage could not claim to be disinterested.

1. Lib. de Dryburgh, p.50.

2. Lib. Cart S. Crucis, p.189.

3. Reg. Mag. Sig. I, p.495.

4. Reg. de Aberbrothoc, I, p.212.

5. A charter of the same year by the Chapter of Glasgow declares that the church will fall to the monastery in proprios usus on the death or resignation of the rector. (Reg. de Aberb. I, p.213.)

(2.) Parish Priests. The appropriation of parish churches to religious houses placed upon these the responsibility of providing for the service of the cure. In some instances this was done by the religious themselves. Where the religious held the church of the parish in which their house was situated, they not infrequently performed the parish duty. Thus the Priory of Ardochattan held the parish church (Kilbodan) and no provision was made for a vicar, the monks probably being available for the service of the cure.¹ But other examples show that religious obtained the privilege of serving their own churches, beyond their immediate vicinity. This privilege was extended to the order of Augustinian canons as well as to the Premonstratensians.² Galfrid, Bishop of Dunkeld, permitted the canons of Scone to serve the churches of Logy Mened and Redgorton "by suitable chaplains or, if they preferred, by their own canons."³ In 1327, Holyrood was allowed to present one of their canons to the vicarage of their church of Kenel when it became vacant;⁴ and the house of Dryburgh, in accordance with the Premonstratensian privilege, secured the right from the Bishop of Glasgow (circa 1350) that they might serve the churches of Lanark and Lessewedyn by their own canons.⁵ Still more curious are two provisions secured by this house. Lucius III in 1184, and Celestine III in 1196, declared -

"In parochialibus vero ecclesijs quas habetis licet vobis quatuor vel tres ad minus de canonicis vestris ponere quorum unus diocesano episcopo presentetur ut ei curam animarum committat ita quidem quod ei de spiritualibus vobis autem de temporalibus et de ordinis observancia debeat respondere...."⁶
while David de Bernham declared in 1242 -

"Ut ad singulas ecclesias eorundem quas in nostra optinent dyocesi et a predecessores nostris eis in proprios usus sunt concessae quas eis etiam episcopali auctoritate confirmavimus unum de canonicis suis nobis et successoribus nostris presentent vicarium qui a nobis et successoribus nostris curam animarum suscipiat ita ut in singulis ecclesijs singuli vicarii resideant, unicuique vicario honesto sacerdote seculari associato cujus auxilio idem vicarius relevetur et solatio recreetur ut sic fructus earundem ecclesiarum in usus conventus cedant ad cujus sustentationem easdem ecclesias predecessores nostri.... concesserunt."⁷

The incompatibility of the religious life with the cure of souls did not weigh heavily on the regulars serving cures, nor is it the point with which the bishops are specially concerned. The point emphasized in de Bernham's charter to Dryburgh is clearly the efficient

1. E.C. Batten, History of Beaulieu Priory, p.149.

2. That the privilege was not confined to canons regular is shown by the fact that William Fraser, Bishop of St. Andrews (1280-1297) allowed the religious of Kelso to serve the chapel of Fogo by three monks or three chaplains (Lib. de Calchou, p.249). A similar instance is Reg. de Neubottle, p.110.

3. Lib. de Scon, pp.64-65.

4. Lib. Cart. S. Crucis, p.77.

5. Lib. de Dryburgh, p.41.

6. Lib. de Dryburgh, p.195.

7. Do. p.28.

service of the cure. From the point of view of the regulars, the working of their parish churches by members of their houses prevented any minimizing of the revenues of the benefices concerned, by the payment of a vicar's stipend. But the special provisions made for the service of Dryburgh's churches seem to bear the implication that regular vicars were inefficient incumbents. The papal charters, establishing a kind of college of vicars, made provision for only one performing the parochial duties: whereas de Bernham's stipulation that a secular priest will assist the regular vicar may be taken as a precautionary measure to secure the efficient working of the cure.

But in the majority of appropriated churches, the cure was served by a vicar, or in certain instances, by a chaplain. The service of parish churches by vicars was not confined to parishes appropriated to monasteries. Churches, for instance, which were held as prebends by canons of cathedrals, were served by vicars. There can be little doubt, however, that the appropriation of parishes to religious houses increased the number of vicarages, as the number of appropriated churches was very considerable.¹ Furthermore, the system of vicarages was detrimental to the welfare both of clergy and people, since it created a class of poorly paid clergy, the hirelings of the monasteries, unable to meet demands on them not only for episcopal dues, but for the upkeep of churches, frequently non-resident when manse were not maintained, and thus liable to perform in a very meagre fashion the duties of their office. There can be no doubt that the system of appropriating parishes to religious houses accentuated these grave evils in the secular church.²

The astonishingly mercenary attitude of the monasteries, towards the parish churches in their possession, is revealed in many instances of their dealings with the vicars on the question of stipend. A Statute of the Thirteenth Century declares:

"We further ordain that vicars of churches shall have a sufficient and respectable maintenance from the revenues of the churches, since they who serve the altars should live by them and from the incomes of the church: But so that the stipend of the vicar net and free, after all burdens have been deducted, shall amount at least to the value of ten marks if the resources of the church shall suffice for this: It being understood that in wealthier benefices sufficient stipends be assigned to vicars in proportion to the resources of the churches and the burdens lying on them."³

1. "Paisley had thirty parish churches, Holyrood twenty seven, Melrose and Kelso each as many, and to such an extent did this prevail that in some districts, two-thirds of the parish churches were in the hands of the monks". (Cosmo Innes, Scotland during the Middle Ages, p.132) 2. "Even the advantages conferred by them (the monasteries) were of small account in contrast with the mischief of humbling the parish clergy. The little village church.... was left in the hands of a stipendiary vicar, an underling of the great monastery, ground down to the lowest stipend that would support life." (Cosmo Innes, Sketches, p.19).

3. Patrick, Statutes, p.11.

The principle that the vicar must be secured a decent maintenance, as enunciated in this statute, is expressed frequently in episcopal charters: and the stipulation, characteristic of these, is shown, for instance, in a charter (ante 1232) of Walter, Bishop of Glasgow, regarding the vicars of Kelso's churches, whom the monastery will present to him "assignaturi eisdem in prefatis ecclesiis honestas sustentaciones unde in episcopalibus sufficienter respondeatur et sic in necessariis honeste provideatur."¹

The question of the payment of episcopalia is the crux of the relations of monasteries and vicars: and the problems arising thereby accounted for much controversy between the regulars and the bishops. The importance of the question is well shown by the preservation of certain documents in the Register of Dunfermline, under the title, "Consuetudines quedam de procuracionum moderamine," and consisting, first, of the celebrated fourth canon of the Lateran Council, of 1179, regulating the equipage of a bishop on visitation; second, a declaration of Innocent IV on the same subject of moderate exactions by bishops, with the significant annotation -

"Sic ordina litteram. Ut procuraciones exhibeantur moderate archiepiscopis episcopis archidiaconis aliisque prelati personaliter visitantibus ab ecclesiis et locis visitatis. Hic ergo probatur quod non debetur procuracio nisi personaliter visitanti,"

an opinion fortified by the third document, a constitution of the legate Ottobon, with the marginal note that a prelate demanding procurations without personal visitation is ipso facto suspended.² Behind these provisions, the religious houses sought to shelter themselves from episcopal strictures on the payment of procurations from appropriated parish churches.

For the aim of the episcopal injunctions that the vicar of an appropriated church should have a decent competence is clearly that a stipend should be assigned to the vicar, sufficient to provide for the payment of episcopalia. It was open to the regulars to impute this demand to episcopal extortion, placing themselves in the incongruous position of champions of the vicar. Thus they Chronicker tells of Peter de Ramsay, Bishop of Aberdeen, under the year 1246, that he "by an apostolic rescript, claimed that all the vicarages of his diocese should be taxed at fifteen silver marks; whereat, in indignation, the Abbots of Arbroath and Lindores, declaring themselves oppressed thereby, appealed with other abbots to the Apostolic See."³ The monasteries of Paisley and Dunfermline appeal to the Pope, in 1226 and 1233 respectively, against, in one case, the Bishop of St. Andrews and Glasgow, in the other, the Bishops of St. Andrews and Dunkeld, who, taking advantage of a constitution of a General Council that a sufficient

1. Lib. de Calchou, p.324.

2. Reg. de Dunfermelyn, pp.200-202.

3. Extracta e Variis Chronicis, p.99.

portion shall be assigned to priests of parish churches, presume to burden the monasteries' churches by unauthorized demands.¹

On the other hand, the evidence points to the mercenary attitude of the religious as responsible for the difficulty about procurations. If the regulars were determined to exact the utmost revenue from the benefice, the bishop was justified in resisting the impoverishment of the vicar. Complaints of insufficient stipend are frequent. In 1352, no less than fourteen of the vicars of churches appropriated to Arbroath complain of insufficient portions.² The policy pursued by the monasteries is rather to obtain the remission of the bishop's demands than to sanction the increase of vicarage stipends. The responsibility for episcopal dues is left entirely with the vicars. Thus in the case of Lindores, involved in controversy with the Bishop of Aberdeen, who alleged to Innocent IV "that some abbots, priors and other prelates as well religious as secular, in the city and diocese of Aberdeen, impose upon the vicars of certain churches which they hold for their own uses, now pensions, contrary to the statutes of the Lateran Council and withdraw from the vicars lands and other possessions pertaining to the vicarages and convert them to their own uses, adding that some of these prelates receive so much from the revenues of the said churches that the vicars cannot be properly maintained out of the residue...." ³

the monastery finally obtained a decision of Alexander IV, in 1256, that the vicars are to be responsible for bishop's dues and other customary burdens; and neither the bishop nor the archdeacon are to exact anything from the portion belonging to the monastery.⁴

It is clear that even such a provision as that made in the Council at Perth, in 1201, with reference to the procurations of Kelso's churches was advantageous to the religious. Vicars will be responsible for episcopal dues, in the form of procurations, in accordance with the canon of the Lateran Council.

"Ita quod si episcopus vel archidiaconus vel decanus visitet parochiam⁵ suam ecclesia que tanti est quod possit sufficere rationabiliter ad procuracionem **ipsis** faciendam faciat. Alie que pauperiores sunt coniungantur due scilicet vel tres vel quatuor vel quot sine gravamine possunt sufficere ad procuracionem suam in anno si episcopus vel archidiaconus vel decanus visitacionem suam fecerit...."⁶

Such a plan was of advantage to the vicars: but more so to the

1. Reg. de Dunfermelyn, p.172; Reg. de Passelet, p.320. The Statute is given, Patrick, p.11.

2. C.P.R. Petitions, I, p.237.

3. Chart. of Lindores, p.127.

4. Theiner, Vet. Mon. Hib. et Scot. p.71.

5. Used here for 'diocese.'

6. Lib. de Calchou, p.27.

monasteries, whose income from the churches concerned was unimpaired, without any obligation to increase the vicar's stipend.¹ It is not surprising that the injunction to vicars to be content with their provision² was disregarded: or that such an instance should be found as that of the vicar of Robertson, a church is the possession of Kelso, who, not content with the goods of the vicarage, seized and detained the garbal tithes of the church, belonging of right to the monastery.³

There was, however, a usage still more advantageous to the monasteries, since it lessened their financial liability for the payment of priests serving their churches; more degrading to the status of the parochial clergy than the system of vicarages; more hurtful to the laity since the services of a parish priest bought at the lowest price could not be efficient. This was the system of serving churches by chaplains. In 1251, the monastery of Kelso received from the Bishop of St. Andrews, the privilege of serving the church of Horuerden "non per vicarium sed per honestum capellanum."⁴ Here, especially, is seen the monastic desire to secure as ample a revenue as possible from their churches. In 1240, for example, Dunfermline received the following concession from David de Bernham -

"Quare vero proventus ecclesie de parva Kingorn adeo tenues sunt ut si ibi vicarius institueretur, modicum vel nichil monachis accresceret volumus et statuimus ut eidem per idoneos et honestos capellanos faciant deservire."⁵

A similar privilege was obtained by Cambuskenneth in regard to appropriated churches (circa 1230), on the grounds of the poverty of their house and the small value of their churches, so that "all the profits thereof may be freely converted to their own use."⁶

It is evident from a statute of the Scottish Church⁷ that the secular church accepted the mean status of chaplains and perpetuated it by the declaration that no chaplain shall demand more than one hundred shillings as a yearly stipend, and that so enlightened a bishop as de Bernham connived at the use of chaplains by the monasteries. But it is likewise clear that the primary reason for their employment was the desire of the regulars for cheap service in their churches. Not only were chaplains used in churches where the revenues were small. The employment of a chaplain enabled the religious to annex, in addition to the rectorial revenues, the portion

1. This was the course commenced by Pope Alexander IV to the Bishop of Glasgow in 1258. The Bishop complained that in his diocese certain parish churches held by religious had no vicar appointed to them; in other the portions reserved for the vicars are so small that the vicars cannot maintain themselves nor meet his demands for Episcopalia. The remedy suggested is; "in illis (ecclesiis)..in quibus sunt nimis tenues vicarie de quibus vicarii sustentari non possunt nec onera debita sustinere vicarius hujusmodi juxta ipsarum ecclesiarum possibilitatem competenter augmentes.." (Reg. Episc. Glasg. p.168)
 2. Lib. de Calchou, p.324. 3. Ibid. p.278. 4. Ibid. p.323.
 5. Reg. de Dunfermelyn, p.71. 6. Cart. of Cambuskenneth, p.364.
 7. Patrick, Statutes, p.53.

assigned to the vicarage. The following extract from a Bull of Clement VI (post 1342) confirming the church of Dalgernock to Holyrood illustrates at once the extent of the monastery's share in the revenue of the benefice and the responsibilities of the chaplain.

"Volumus autem quod ex ipsius vicarie proventibus si parochialis existat perpetuo capellano inibi servituro congrua portio per Episcopum Glasguensem.... assignetur ex qua idem capellanus valeat commode sustentari episcopalia iura solvere et alia sibi incumbencia onera supportare...."¹

One further problem arises from the position of the vicars as dependents of the religious houses. There was no absolute rule regarding the constitution of the vicarage revenues. Certain of the arrangements made between the monasteries and their vicars involve the payment of an annual sum by the vicar, as a condition of his holding the benefice. Between 1202 and 1238, the Bishop of St. Andrews, in view of frequent disputes between the monastery of Dunfermline and the vicars of the church of Perth "super statu vicarie", decrees that the vicars shall pay episcopalia, and also- "Percipient omnes oblationes et omnia testamenta et omnia que casibus fortuitis obvenire poterunt et omnes decimas quadragesime in pecuniam numismata consistentes. Reddendo ex hiis ^{annuatim} in perpetuum domui de Dunfermelyn quinquaginta marcas residuum sibi nomine vicarie retinendo. Dicti vero abbas et conventus omnes alios proventus eiusdem ecclesie in proprios usus convertent."²

Similarly, in 1247, David, Bishop of St. Andrews, in a charter concerning Paisley's churches, ordains that the vicar of Innerwick will have the altarage with an acre of ground, at a yearly reddendo to the religious of seven silver marks "nomine pensionis."³

The results of this pensionary system were that the onus of collecting parochial revenues rested on the vicar, who had to raise his own income and might extort exorbitant dues from his parishioners; or who, on the other hand, when the parochial revenues were not forthcoming, was still under obligation to pay his reddendo to the monastery. That the vicar could be thus at the mercy of the monastery, is illustrated by a controversy of 1252-1256, between the vicar of Dundee and the religious of Lindores, to whom the vicar was ordained to pay ten marks sterling, while he received the whole altarage.⁴

1. Lib. Cart. S. Crucis, p.137.

2. Reg. de Dunfermelyn, p.64.

3. Reg. de Passelet, p.119.

4. Chart. of Lindores, p.289.

The vicar, who had appealed against the assessment of ten marks, finally agreed to pay this sum, and was adjudged by the Bishops of Dunblane and Brechin to pay the arrears and fifty marks for damages and costs, and was remitted to the special grace of the abbot and convent.¹ Again, it was open to the religious not only to grant the benefice to the highest bidder, but to increase the pension required of the vicar. Thus in 1250, a Bull of Innocent IV narrates that the Bishop of Aberdeen had inhibited the vicars of churches in the possession of Kelso, Arbroath, Lindores and St. Andrews from 2 paying anything in future beyond the old pensions from these churches.

The possession of patronage by, and the appropriation of churches to the religious houses created a class of secular clergy, dependent on the monasteries for appointment and maintenance. A further question arises of their effects on the security of tenure enjoyed by the beneficed clergy. The need of the provision, frequently included in charters of confirmation, that the religious will enter into a benefice only on the death or resignation of the rector is shown by the attempt of the monastery of Dunfermline to oust the rector of Kinross, circa 1316, who had been presented to that church by the King, its patron. In view of the monastery's losses through war, the King granted, with a view to complete appropriation on the death or resignation of the rector, the ius patronatus of the church to the religious of Dunfermline, who now demand that the rector gives up the church, so that with the bishop's consent and collation, they may more quickly and more freely obtain that church for their own use. The rector at length submitted himself "super resignacione dicte ecclesie et sustentacione sua monasta habenda in futurum" to the bishop's ordinance, and was finally pensioned off at an annual rate of one hundred marks payable by the monastery.³ The avarice of the religious, demonstrated by their anxiety for the parochial revenues, and whetted by the gift of patronage, was thus a threat to the secure tenure of the rectors of parishes on which they had designs. But the plight of the vicars and chaplains in their employ was infinitely more hazardous. The rectors were independent and could only be cajoled out of their livings; whereas vicars and chaplains were dependent and could be coerced.

Chaplains had frequently no security of tenure. The canons of Scone obtained, in 1266, the confirmation by the Bishop of St Andrews of their privilege of serving their churches in his diocese by

1. Chart. of Lindores, pp.289-290.

2. Do. p.125.

3. Reg. de Dunfermelyn, p.237.

suitable chaplains -

"Et eosdem capellanos prout sibi viderint expedire pro tempore retinere et amovere."¹

While in 1200, the Priory of St. Andrews obtained the church of Dairsie

"Ita tamen quod per unum capellanum parochialem ydoneum ad libitum eorum ponendum et removendum prefate ecclesie honeste faciant deserviri."²

In the case of vicars, there was a necessity of safeguarding the security of their tenure by the stipulation that they should be 'perpetual vicars', as in the provision of 1201 for the serving of the churches of Kelso;³ and bishops are found insisting that the vicar, once appointed, is not removable at will. Simon, Bishop of Moray, in 1348, declares of a church held by Arbroath -

"quicumque vero vicarius erit predicte ecclesie de Aberkerdor vicariam predicte ecclesie habebit et tenebit pro vita sua integre plenarie et honorifice...."⁴

Between 1202 and 1238, William de Malvoisin admitted to the church of Fergan, Richard de Thouni, on the presentation of the Priory of St. Andrews, but saving the right of Gervasius de Nealfa, who is to hold the church, during his life, as vicar, along with the chapel of Ardnathan,⁵ an instance evidently of a threat to a vicar's secure tenure, by the nomination of a new incumbent. The assumption by the religious that because they had the appointment of a vicar, they had also the right to dismiss him, is combated in the episcopal stipulations that the vicar has a liferent of his vicarage.

The religious, by the system of appropriated churches, had thus a potent influence over the status, revenues and tenure of the parish clergy. They gained indeed a measure of control over the service of the parish churches which rivalled that of the diocesan: and the extent to which they emphasized the dependence of the parish clergy is shown by the fact that Nigel, cleric of Keith, is required and his successors after him, to make oath of fealty at Dunfermline, "Sicut eiusdem loci clerici."⁶

We may note two respects in which the privileges of the religious menaced the rights of the parish clergy. First, it was a privilege, notably of the Cistercians and Cluniacs, but also of other orders, that certain of their lands and properties were immune from tithes.

1. Lib. de Scon, p.80. A Bull of the anti-Pope Benedict XIII declared: "Presbiteros ydoneos qui eis (i.e. ecclesiis) deserviant instituere ad eorum voluntatem valeant et destituere licentiam concessit." (Lib. de Scon, p.155.)

2. Reg. St. And. p.120.

3. Lib. de Calchou, p.327.

4. Reg. Episc. Morav. p.276.

5. Reg. St. And. pp.106-109.

6. Reg. de Dunfermelyn, p.69.

The monks of Kinloss were exempt from the tithes of lands cultivated by their own labour or at their own expense, of the young of animals¹ (a common privilege) and likewise of their fisheries;² and Boniface VIII granted to Melrose (1303) -

"Ut de terris vestris cultis et incultis ad ordinem vestrum spectantibus quas aliis concessistis vel concedetis impostorum excolendas de quibus tamen aliquis decimas seu primicias non percepit nullus a vobis seu cultoribus terrarum ipsarum aut quibuscunque aliis decimas seu primicias exigere vel extorquere presumat...."³

This, while conducive to the development of industry, was detrimental to the revenues of the secular church, since tithe was the most important part of its income.

It has been noted that regulars, in certain instances, were allowed to serve the churches belonging to their houses, as vicars. A different form of usurpation of the functions of the secular clergy is found where regulars are permitted to perform the duties nominally relegated to parish priests, but apart from parish churches. A Bull of Gregory IX (1234), in response to the 'fervent desire' of Melrose, granted that in the case of men in the service of the monastery, who could not easily have the service of their own priests, priests (i.e. monks in priest's orders) of the house whom the abbot deputed may hear confessions, impose penance, and show forth the sacraments of the church without prejudice to anyone's right.⁴

(3.) Parish Churches etc. The last point affects not only the rights of the parish priest, but also the special rights of parish churches, indicated in the Statute which declares "that no chapel or oratory be built without the consent of the diocesan: and that no sacred office whatever be performed.... in such as have been built without his consent or authority," with insistence on the rights of the mother-church; also in that which forbids the celebration of mass without leave of the bishop, in private places.⁵ That the monasteries did something to make these constitutions a dead letter is the implication of certain papal privileges obtained by them. Newbattle obtained from Alexander IV an indulgence, in 1254,

"Ut in civitatibus villis grangiis et domibus vestris liceat vobis cum famulis vestris divina officia celebrare sine juris prejudicio alieni...."⁶

1. Cf. Dowden's note (Medieval Church, p.174.) on the meaning of 'nutrimenta animalium.'

2. Stuart, Records of Kinloss, p.106. 3. Lib. de Melros., I, p.312.

4. Lib. de Melros, II, p.470. On the strength of this privilege, the abbot obtained, in 1394, the right to appoint a suitable priest to perform the sacraments in the chapel of Melrose to the servants of the monastery, "sicut alii parochiales sacerdotes alibi infra nostram diocesem suis parochianis administrant." (loc. cit.)

5. Statutes, pp.10-11.

6. Reg. de Newbattle, p.200.

But as the Premonstratensians are conspicuous for their privileged usurpations of the place of the parish clergy, so also they threaten the rights of parish churches by such a privilege as that enunciated by Innocent IV, in 1246 -

"Ob evitandas vero secularium virorum frequentias liberum sit vobis salvo jure diocesanorum episcoporum oratoria in grangiis et curtibus vestris construere et in ipsis vobis et familie vestre divina officia cum necesse fuerit celebrare et ipsam familiam nisi aliqui sint qui in vicinia habeant propria domicilia ad confessionem communionem et sepulturam cum vestri ordinis suscipere honestate,"¹

The contrast between the regular and secular attitudes is manifest, the Statutes, representing the desire to maintain the rights and the sanctity of the parish church, the religious concerned to keep their communities exclusive and to attach their retainers to the community by setting up places of worship of their own.²

The upkeep of church buildings and the equipment of churches with ornaments, vessels and books is a subject of enactment concerning the monasteries' churches, a source of controversy also between monks and vicars. The year 1304, saw the settlement of a dispute between the Bishop of Brechin and the religious of Arbroath, in regard to the latter's churches; and the Bishop of St. Andrews, as arbiter, decreed -

"Ita tamen quod ipsi abbas et conventus predictas ecclesias³ reparabunt et competenter ornabunt. Et ad minus in unaquaque ipsarum unum vestimentum sacerdotale competens cum calice et missali sufficientibus iuxta statum ecclesie cuiuslibet ponunt et dimittant. Et si postmodum in eisdem vel in aliqua ipsarum aliqua fuerit emendanda vel supplenda per ipsos vicarios si modica fuerint alioquin ab ipsis religiosis pro duabus partibus et a vicario pro tertia parte suppleantur et reparantur...."⁴

Obviously before this date, the churches, which had been in the hands of the religious for about a century, had been neglected; and it is possible that they are the churches, in respect of which the monks complain to the Pope in or before 1268, that the ordinaries have sequestered the revenues, on the ground of defects in the buildings, ornaments, and other things.⁵ Precautions are taken in 1304, against placing the whole burden of repair and upkeep upon the vicar, especially as the churches concerned were of small revenue⁶ and the subject of legislation elsewhere on the payment of procurations.

1. Lib. de Dryburgh, p.187.

2. The monastic attitude towards chapels other than those for their private use is discussed below, in an appendix.

3. Which are served by vicars.

4. Reg. Episc. Brechin, II, p.267; Reg. de Aberbrothoc, I, p.182.

5. Reg. de Aberbrothoc, I, p.194.

6. Ante 1214; Reg. Episc. Brechin, II, p.260. The churches were Maryton, Guthrie, Panbryde, Monikie, and Dunnichen.

But on this question, a locus classicus is found in the charters of Dunfermline, which monastery was engaged in controversy with the vicar of Inverkeithing, in the years 1311-1314, on the repair of the choir of Inverkeithing church. A charter of 1305 records that against the claim of the vicar, the Abbey of Dunfermline successfully maintained their right to the whole grain tithes of the parish, saving to the vicar the residue.¹ To the meagreness of the vicar's 2 portion is probably to be traced his assertion, reported before the commissary who heard the case in 1311, that the religious are bound to repair the choir. Judgment was given (in the absence of the vicar) to this effect -

"Porcionem garbarum decimalium ecclesie de Inverkeithyn ad abbatem et conventum de Dunfermelyn pertinentem auctoritate apostolica liberam fore et inanem ab omni onere exigendo invenimus luculenter; dictosque abbatem et conventum ad aliqua onera Episcopalia vel alia onera ecclesie de Inverkythyn ratione dicte portionis incumbencia non teneri sed potius clericos in dicta ecclesia.... instituendos..."³

It need only be added that in 1314; the vicar is found paying modified costs, by favour of the monastery, to which he is at length reconciled.⁴ This case illustrates the helplessness of the vicar; but specially the unwillingness of a monastery to assist in the repair of a parish church, the burden being placed upon the vicar. The result was simply that the church was not repaired, for the question arose again in 1330.⁵

When the Bishop of Moray makes provision for the vicar of Inverness (a church in the hands of Arbroath) to the effect that -

"Quilibet etiam vicarius juxta ecclesiam habitationem habebit quam modo habebat vicarius ubi nos et nostros et predictos Abbatem et suos ibidem adventantes honeste recipiet,"⁶

he was enunciating the general principle by which the sufficiency of a vicarage manse could be tested, viz. its suitability for entertaining the bishop and others. The Bishop of Aberdeen, in 1314, enjoined the monks of Cupar to furnish the vicar of their church of Alveth with a toft and croft near the church, and to have built for their first vicar decent buildings for the reception of the ordinary, these buildings to be kept up at the vicar's expense.⁷ The need for such injunctions is demonstrated by a charter of 1287, relative to the church of Kirkandrews, held by Holyrood. The bishop of Galloway allows the religious to serve this church and that of Kelton "by suitable hired chaplains." The church of Kirkandrews has

1. Reg. de Dunfermelyn, p.225.

2. He is called 'curate' in this charter.

3. Reg. de Dunfermelyn, pp.227-228.

4. Do. p.230.

5. Do. p.256.

6. Reg. Episc. Morav. .276; Reg. de Aberbrothoc, l.p.170.

7. Reg. Episc. Aberd. p.41.

neither a manse nor an endowment and even if the vicar could make a dwelling, he could not reside.¹ When the regulars were chiefly concerned to use the parish churches as means of revenue, the expense of building a manse, far less the expense of its upkeep, was an obligation to be avoided. Thus the way was opened to non-residence and the most meagre service of the cure.

(4.) The parishioners. For these, it may be said, the influence of the appropriation of churches to monasteries, was extremely unfavourable. The plebis cura for which William de Lambertton declared the vicars of Kelso responsible, ² could not but be neglected, when parishes were served by chaplains, hired at a pittance to perform the offices of religion, and by clergy unable to reside. The position of the people in appropriated parishes was often that they paid, not for the upkeep of the churches and clergy which brought to them the solace of religion, but rather for the enrichment of the religious, from whom they derived no benefit. How, for instance, did the parishioners fare in the parish of Kildonan, farmed by the canons of Scone, in 1330, to Robert "dictum Lytil" and David, his brother, for £14-13-4, for a period of two years, to be extended to a further eight years if Robert and David find sufficient and acceptable sureties? These men are to build up the church sufficiently with stone and lime for an allowance of four marks, and to sustain all the ordinary burdens of the church for the two years of the contract, along with the bishop's 'aid' and the papal dues" of the present year."³ They are, in short, made lay incumbents. For the sake of the income accruing, the monastery is prepared to leave entirely out of account the cure of souls.

1. Lib. Cart. S. Crucis, p.72.

2. Lib. de Calcheu, p.251. The expression used of the vicar is: "Qui plebis curam habebit et de plebis cura Episcopis respondebit."

3. Lib. de Scon, p.120.

Appendix I. The Monks and Chapels.

Chapels were of various types and arose from various causes. Some were chantries, founded for the offering of masses on behalf of the dead; some were the private oratories of manor-houses, served by chaplains in the lord's employ and for the use of the lord and his family. But most frequently, they existed as adjuncts of a parish church, placed in an outlying part of a parish, to meet the spiritual needs of parishioners who lived at considerable distance from the parish church. Thus, there was a chapel of Cousland attached to the mother-church of Inveresk,¹ at a distance of four miles from the parish church. Similarly, the parish church of Glamis had a chapel at Clova,² which served the needs of parishioners in that distant and inaccessible part of the parish.³ Here we are concerned with chapels of whatever type, existing in the parishes whose churches were appropriated to monasteries.

The Statute of the Scottish Church that chapels are not to be built without the consent of the diocesan,⁴ with provision against prejudice to the mother-church, lays down the basic principle regarding the existence of chapels. The point of this provision was ultimately the safeguarding of the revenues of the parish church. Nothing was to divert the offerings of the parishioners from it. But there was also a question of order and supervision. Bishops could not look with favour, for instance, on the development of a system of oratories, attached to the manors, for the private use of the lord and his family, guests and servants, for this was to isolate a centre of worship from his oversight, to make the priests so employed mere servants of the knights and barons, and thus to menace his authority over the clergy of the diocese. The principles at stake were that parish revenues must be kept intact, the rights of the parish church respected, and the secular organisation, dependent on the directive oversight of the bishop, unimpaired.

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1. Reg. de Dunfermelyn, p.56. 2. Reg. de Aberbrothoc, I., p.209.
 3. This is shown in de Bernham's provision for the chapel and chaplain of Clova; "Noveritis quod cum parochiani de cloveth tantum distarent ab ecclesia sua matrice de glannes quod diebus sabbatibus et aliis ad eam pro sacramentis recipiendis accedere non poterant commode ut debebant.... Nos autem concessimus eisdem in dicta capella sacristarium cum cimiterio in sepultura mortuorum et receptionem omnium sacramentorum in eadem capella salva eo quod ter accedere decant in anno ad ecclesiam suam matricem de glannes omnes predicti." (Reg. de Aberbrothoc, II., p.209.) An English example illustrates this justification for the existence of a chapel and its utility (1281): "Pateat universis quod nos W.... concedimus.... quod venerabilis frater Candaie Cuse episcopus.... possit ad instantiam unanimem prioris presidentis de Sancta Bega et parochianorum ejusdem loci capellam de Louswater in eadem parochia propter vehementem^{su} distantiam unicum cimiterio ad plenum usum sacramentorum et sepulture ecclesiastice.... dedicare..." (Reg. of Archb. William Wickwane (Surtess Secy), p.120.)
 4. Patrick, Statutes, p.10.

But there was a threat to the authority of the bishop to sanction or inhibit the building of chapels, in the privilege commonly given to the religious, and exemplified in a Papal Bull of confirmation to the Abbey of Kelso -

"Censemus insuper ut nulli ecclesiastice secularive persone liceat infra terminos parochiarum vestrarum ecclesiam cimiterium vel oratorium de novo construere.... sine assensu vestro...."¹

This privilege defended the religious against the alienation of the revenues of their parish churches; and they erect one with the Secular Church in demanding due recognition of the Mother-church. But the ominous feature of this concession is that it gave to the religious, authority equal to that of the bishop, since the right of the monastery to sanction or refuse the building of chapels is the gist of the privilege conferred.

Proceeding to examine the outcome of the erection of chapels within parishes in the possession of the religious, we discover, first instances of the religious resisting the building of chapels in these parishes. In 1254, the canons of St. Andrews have complained to the Pope against David de Bernham, who has infringed their privilege, by granting his episcopal consent to the erection of chapels within their bounds, by William de Valognes and other knights for "brothers of the Holy Trinity and captives;"² and in 1267, the monks of Kelso are embroiled with the Knights Templars, who have rebuilt their chapel in the monastery's parish of Culter, and kept the great and small tithes, offerings and other dues of the parish church.³ Both are cases of the religious standing to their privileges, where there is good reason to believe that the existence of chapels was justifiable as involving no threat to the parish church in the one case, as expedient in the other, since it was shown that the parish church of Culter was inaccessible. The Knights were allowed to retain the chapel, tithes, cemetery etc. but obliged to pay eight and a half marks yearly to the monastery. In these instances, the anxiety of the religious that revenues accruing to parish churches should not be diminished, is demonstrated. They resist the building of chapels when it is against their interests.

The same anxiety is shown in the special provisions obtained in regard to the relations of chapel and Mother-church, which the monks arranged between themselves and the lord of the manor, where we should expect an adjustment made by the diocesan. There are sometimes minute

1. Lib. de Calcheu, p.355. Given in a different form by the same Pope (Innocent IV) to Scone: "Prohibemus.... ut infra fines parochie vestre nullus sine assensu dyocesani Episcopi et vestro capellani seu oratorium de novo construere salvis privilegiis pontificum Romanorum". (Lib. de Scon, p.77.)

2. Lyon, St. Andrews, II, p.30.

3. Morton, Monastic Annals, p.144.

specification of the manner in which the chapel revenues shall be disposed. This is evident in an arrangement made (1207) between the Abbot and Convent of Kelso and Eustace de Vescy, Lord of Sprouston, who has obtained a chapel at his manor, where he will near pass when in residence, whose chaplain also will take oath against loss to the mother-church of Soruston.

"Capellanus vero matricis ecclesie¹ percipiet omnes oblationes servientium domini Eustachij et parochianorum illius parochie sive dominus ibi fuerit sive non. Exceptis hiis que proprie sunt de curia domini Eustachij vel de curia domini. Et exceptis hospitibus supervenientibus quamdiu dominus vel dominus ibi fuerint extra eos qui residenciam habent in ipsa parochia de Sproueston quorum oblationes percipiet sacerdos matricis ecclesie.."2

We note how the offerings of all the individuals concerned are accounted for, guests included. But the offerings of those who would normally make the largest contributions are reserved for the parish church, and ultimately for the monastery.

But the most significant use of the right of the religious to sanction or withhold the building of chapels is this:- The religious found the exercise of this right an instrument of their policy towards the feudal lords. The grant of a chapel was a means of ingratiating themselves with the landowners, a return for favour shown, or a means of gaining concessions for themselves. From the point of view of the landowner, the possession of a private chapel was a boon, making him independent of the parish clergy for participation in the sacraments, since he had a priest in his employ, who might be expected to obey him rather than the rector or the bishop, if for any reason he caused offence to the Church. The case of the chapel of Congleton (circa 1224) illustrates the attitude of the landowner on this point. William, rector of Gullane is engaged in controversy with Sir Walter of Congleton. The point at issue is revealed in the clause of the settlement ending the dispute -

"Si autem dictus miles aliquem capellanum circa se retinere voluerit non celebrabit in capella de Congilton nisi prius facta fidelitate matri ecclesie de Gelyn et ejusdem rectori de omni indemnitate: quæ si contra juramentum suum venire presumpserit statim amoveatur."3

The religious were able to further their interests with the knights and barons and to make such terms as would safeguard themselves against loss to their churches. How the Monasteries could

1. This would appear to mean the chaplain, employed at the chapel, but subject to the mother-church.

2. Lib. de Calchou, p.172.

3. Lib. de Dryburgh, p.34.

profit by the grant of a chapel is shown between 1202 and 1200. It was agreed between the monastery of Kelso and Bernard de Hauden that the latter should have a chapel at his mansion. The charter proceeds -

"Quando vero predicti monachi hanc capellam ei concesserunt ipse B. intuitu caritatis et fraternitatis domus de Kelcho habende dedit eis octo acras et unam rodam terre in liberam et perpetuam elemosinam preter terras quas ipsi monachi habuerunt in hauden.... et concessit ut habeant suam carucatum terre in hauden cum omnibus libertatibus suis et exitum ad pascua per eandem terram... Concessit autem eis decimam molendini sui perpetuo...."¹

The point at issue had been the monastery's claim to common grazing in the pasture of Hauden on the strength of their holding the church of Sprouston. In the settlement indicated above, both parties were placated, by meeting the desire of the lord for a chapel and the desire of the monastery for the lord's goodwill. There are similar instances in grants of chapels by Dryburgh² and Lindores.³ Robert Croc and Henry de Nef, who are given permission to make oratories at their mansions, are designated 'special friends' of the Abbey of Paisley.⁴

We may pass to note the terms on which chapels and their chaplains were maintained. First, in the case of chapels which are not oratories of great houses, but erected to meet the needs of parishioners, it is indicated that the vicar serving the mother-church is responsible for the payment of the chaplain of a subject chapel. Alan Durward, Justiciar of Scotland, in 1251 bestowed on the chapel of St. Mary, in the parish of Logindurnach, five merks sterling a year for the maintenance of its chaplain, this sum to be paid to the vicar, who will maintain the chapel and chaplain becomingly in all things, and find the furnishings of the chapel.⁵ In 1323, the Archdeacon of St. Andrews found that the vicar of Lathrisk and not the Priory of St. Andrews was bound to supply a chaplain for the chapel of Kettle.⁶

Again, where chapels are attached to manor-houses, the usual terms obtained are that the lord of the manor will provide for the chaplain and the upkeep of the chapel. Roland de Grenelaw, in an agreement with the monastery of Kelso, undertakes to find all that is necessary for his chapel,⁷ likewise William of Brechin in respect of

1. Lib. de Calchou, pp.174-175.

2. "When Henry de Mundevilla built the chapel of Glengelt, in the parish of Childenchurch, he... gave the canons of Dryburgh three acres contiguous to the seven acres they had from his ancestor, Ivo de Veteri ponte." (Morton, Monastic Annals, p.307).

3. Chart of Lindores, p.65. 4. Reg. de Passelet, P.78.

5. Do. p.87.

6. Denmylne Charters, 23; Lyon, St. Andrews, II, p.308.

7. Lib. de Calchou, p.113. Circa 1200.

the chaplain of his chapel at his castle at Lindores.¹ An agreement of 1276-1288(?), between the monks of Arbroath and William de Monte Alto, shows a significant variant of the usual arrangement. The monks bind themselves to find a monk of their house or an honest chaplain who will serve the chapel in the land of Kenammorcail, "for the said land of Kenammorcail, which the said lord W. gave and conceded to us in pure and perpetual alms."²

The point of view of the religious houses, which transpires in this type of transaction, is simply that where the grant of a chapel was made, they sought to avoid any responsibility for upkeep or stipend. Under these conditions, their power to grant chapels was both useful and cheap. There is little evidence that their aim of avoiding responsibility was much challenged, except in certain instances in the episcopate of David de Bernham. In 1248, that bishop gave judgment in a dispute between Lindores and Sir Henry of Dundemon, concerning the service of the chapel of Dundemon, in their parish of Abdie. The abbot and convent were to pay twenty five shillings for the maintenance of the chaplain, to Sir Henry and his heirs, who, in turn, were to have the chapel, decently served, and to find all things necessary for the chaplain.³ The same bishop made special provisions for the maintenance of the chaplain at Clova, a chapel in a distant part of the parish of Glamis,⁴ considering evidently that it supplied the needs of the parishioners there. That consideration did not affect the religious. If they could secure the mass-offerings, and incur no financial responsibility by the grant of a chapel, the power to make that grant was a valuable possession. Their ideal was to secure the indemnity of the mother-church and the payment of the chaplain by the vicar, or the lord for whose goodwill they were concerned.

Lastly, chapels at the disposal of or in the possession of the religious were a menace to the rights of the secular church. Where a chapel depended directly on a parish church appropriated to a monastery, due regard was paid to the claims of the parish church. This did not always hold in the case of chapels held by the religious. The monks of Dunfermline held the chapel of Kirkcaldy, within the parish of Dysart, and the rector is found (1202-1238) complaining to the Pope, that the monastery injures him in respect of the chapel of Kirkcaldy, pertaining of right to his church. The cause was settled by the payment of one hundred shillings annually by the chapel to the church, the rector to assert no claim

1. Chart. of Lindores, p.69.

2. Reg. de Aberbrothoc, I, p.189.

3. Chart. of Lindores, pp .70-71.

4. Reg. de Aberbrothoc, II, p.209. Cf. p.126, Supra.

exceeding this sum.¹ A chapel in the hands of the religious could become highly privileged. The monks of Melrose held certain lands and properties in the moor of Kyle, "outside the bounds of all parish churches" in the diocese of Glasgow. In 1315, the Bishop of Glasgow made the special indulgence to the monastery -

"Ut liceat vobis in territorio vestro de Mauchelyne capellam sive ecclesiam iam constructam pro vestris inquilinis et inhabitantibus infra fines vestros predictos more de Kyle morantibus et processu temporis moraturis perpetuo iure libere possidere. Quamquidem capellam seu ecclesiam iuxta decentiam qua convenit omnibus insigniis parochialibus volumus et discriminibus insigniri ipsamque cum omnibus decimis maioribus et minoribus predialibus et personalibus ac obventionibus quibuscunque a dictis inquilinis et inhabitantibus vestris vel aliunde quocummodo convenientibus vobis et monasterio vestro.... auctoritate nostra predicta amectimus et appropriamus ac in usus vestros proprios.... libere concedimus."

Thus, for the benefit of the monastery's resources, the chapel is endowed in the manner of a parish church. Further provisions reveal the amount of immunity obtained for the chapel. The upkeep of the church and cemetery is to be left to the discretion of the abbots. The church is immune from visitation by bishop, archdeacon or official; and in order that this concession may yield the monastery greater revenue, the church will be served by a suitable priest, who will minister to the people, and whose status is evidently that of a chaplain, since the provision that is made for him is one hundred shillings (out of which episcopal and archidiaconal dues are to be paid) with an acre of ground for a house and curtilage according to their desire.²

A church of this nature was endowed simply for the enrichment of the monastery, and no benefit could accrue to the priest or to the parishioners, for whom the original chapel had been erected. It was uncontrolled by bishop or rector, and church and chaplain were at the mercy of the monastery. Chapels, like parish churches, were not considered from the point of view of the efficient cure of souls, but rather from the point of view of the offerings that were made in them. The benevolent intention of the secular church to bring the institutions of religion to remote districts was overborne by the avarice of the monasteries. The gift or possession of chapels by the religious was part of the process by which they degraded the secular church into a source of gain, and a revelation of their carelessness towards the secular clergy. In particular, the grant of chapels to the landowners was utterly mercenary in its motives, and the cause of an invidious differentiation between the ministration of religion to the rich and to the poor.

1. Reg. de Dunfermelyn, p.66. A similar case is the chapel of Notun. (Reg. Episc. Glasg. pp.71,68,70.).
2. Lib. de Melros, II, pp.366-371.

Appendix II.

"In Proprios Usus."

The characteristic usage of the phrase "in proprios usus" (with its variants, "ad proprios usus", "in suos proprios usus," etc.) is of the conveyance of parish churches and their revenues into the possession of religious houses, the process called, more particularly in English Law, "appropriation."¹ Thus a charter of Hugh, Bishop of St. Andrews, to Dunfermline declares -

"Considerantes ita qualiter in operibus caritatis et hospitalitatis ecclesia eadem nimis gravetur expensis in proprios usus monachorum ibidem deo servientium ecclesiam de Hellen cum eius fructibus² et conventibus et omnibus aliis iustis pertinenciis.... concedimus

The phrase is used of donations to religious houses other than churches. It occurs as early as 1153-65, in a charter of Malcolm IV. to Melrose -

"Totum usagium memoris infra prenomintas divisas ad suos proprios usus sicut opus est fuerit...."³;

and the phrase is used of such diverse things as the purchases of the monks of Arbroath in England (1205);⁴ of fishing-rights by Paisley (as late as 1452);⁵ of the use of the Bridge of Mellerstain; by the monks of Kelso.⁶

Again, the early expression, "in liberam puram et perpetuam elemosinam," in grants of churches is sometimes used along with the phrase, "in proprios usus." But, in general, the phrase "in proprios usus" is characteristic of bishops' charters of confirmation of the gift of a parish church, where the corresponding charter of the lay donor uses the phrase "in liberam puram et perpetuam elemosinam." Episcopal sanction was necessary before the monastery could take possession of the revenues of a parish church.

What is the significance of this common phrase, which becomes stereotyped in charters regarding the grant and possession of parish churches? Dowden declares of its use in one instance, that it signifies "the fullest grant of a parish church which could be given."⁷

There are certain instances which support Dowden's view. Thus, there are many cases where a church held "in proprios usus" is to be served by chaplains, the object being, clearly, that the monastery should receive the full revenue of the benefice, and employ a priest at a small wage to serve the cure; or provision is made to serve the church.

1. Cosmo Innes, *Scottish Legal Antiquities*, I. 105.

2. *Reg. de Dunfermelyn*, p.60.

3. *Lib. de Melros*, I, p.6.

4. *Reg. de Aberbrothoc*, I, p.330.

5. *Reg. de Passelet*, p.250.

6. *Lib. de Calchou*, p.105.

7. *Inchaffrey Charters*, p.274, Note to charters XXX and XXXI.

by a regular or regulars of the house to which it is given. But other instances can be shown in which a church is given "in proprios usus," with provision for a vicar. Thus, in 1244, Ralph, Bishop of Aberdeen, reserves the altarage, as well as a manse and curtilage to the vicar of the canons of St. Andrews, who serves their church of Dourtie, given them "in proprios usus".¹ A portion for the vicar is specified in the confirmation by the Bishop of St. Andrews of the revenues of the church of Heriot to Newbattle "in proprios usus".² The truth in Dowden's statement is that frequently the possession of a church "in proprios usus" meant that to the regulars accrued the full revenue of the benefice.

But a much more definite and important statement on the meaning of the phrase is made by Connell.³

"..... In course of time these words, "in proprios usus", came to be used as a technical phrase, denoting an appropriation both of vicarage and parsonage. Thus, in the return made to the Monastery of Kelso to Robert Bruce, of its revenues, some of its churches are said to be held "in rectoriam," and others, "in proprios usus". Chart. Kelso, fol. 6.- the former obviously comprehending those churches whereof the parsonage only was conveyed, and the latter those where both parsonage and vicarage were granted!"

The instances which give colour to Dowden's statement support also this pronouncement; e.g. William, Bishop of St. Andrews, in 1356 gives to the canons of Scone -

"Ecclesiam^{parochialem} de Blar.... cum omnibus suis fructibus obventionibus decimis majoribus et minoribus ac pertinenciis universis prefatis religiosus in proprios usus in prefati monasterii et suam utilitatem plenarie perpetuo convertendam....",⁴

with provision that the church was to be served by a chaplain.

The case of the church of Kirkcubright seems to prove his point.

In 1295, William, Bishop, of St. Andrews declared -

"Volumus.... et.... ordinavimus ut abbas et conventus monasterii (de Cambuskynel).... fructus, oblationes, et obventiones ad ecclesiam de Kirkcubright nostre diocesis pertinentes.... cuius ecclesie sola rectoria ad dictum monasterium usque ad hec tempora pertinebat integre percipiant et in usus suos pro suo arbitrio convertant et dicte ecclesie per ydoneos capellanos faciant deservire...."⁵

On this, Gregory XI, in 1272, notes that the monastery had shown in a petition, that the Bishop of St. Andrews -

1. Reg. St. And. p.303.

2. Reg. de Newbattle, p.48.

3. On Tithes, I, p.56, footnote.

4. Lib. de Scone, p.131.

5. Cart. of Cambuskenneth, pp.144-145.

"Attendens quod dicti abbas et conventus qui rectoriam parochialis ecclesie de Kirketoun.... canonicè obtinebat.... quodque dictum monasterium pro sustentacione personarum ibidem Domino famulantium subventionē temporalium indigebat.... perpetuam vicariam dicte ecclesie cum rectoria ipsius coadunavit ac dictis abbati et conventui concessit ut ipsam ecclesiam de Kirketoun.... cum omnibus suis pertinenciis integre et plene haberent et in perpetuum possiderent in quiete; fructus omnes et singulos et obventiones necnon et decimas tam maiores ad dictam ecclesiam pertinentes.... perciperent et in usus proprios pro sue voluntatis arbitrio converterent et quod ipsi abbas etc.... per duos capellanos.... facerent deserviri...."¹

Connell is right in so far as in certain small churches the revenues were not sufficient to provide a vicar; or where the monastery did in fact receive the whole income of the church. But that the distinction does not hold good absolutely between parishes held "in rectoriam" and those held "in proprios usus," may be readily shown. In 1285, Henry, Bishop of Aberdeen, gave the monks of Arbroath this grant -

"Habeant et possideant redditus et proventus universos predicte vicarie de fyvyn in usus proprios convertendos....";²

and another charter of Cambuskenneth, by William de Landale, Bishop of St. Andrews, in 1150, speaks of the vicarage and the rectory being given each and separately "in proprios usus."

"Volentes igitur et affectantes premissis dampnis et periculis prout possumus occurrere et dictum monasterium relevare integram vicariam de Clackmannan cum omnibus suis possessionibus terris fructibus oblationibus et obventionibus ac ceteris iuribus et pertinenciis suis abbati dicti monasterii... de Cambuskyneth et canonicis.... damus in perpetuum et concedimus in proprios usus ac confirmamus per presentes: Volentes concedentes et ordinantes quod futuris temporibus dictus dominus abbas de Cambuskyneth et canonici eiusdem prefate ecclesie de Clackmannan cuius rectoriam ante istam donationem nostram concessionem et ordinationem diu in proprios usus pacifice possederunt per unum capellanum idoneum.... faciant deservire...."³

Two charters of an earlier date (1293), which refer to the grant of the rectory of Walston to the Dean and Chapter of Glasgow, illustrate the fact that a grant "in proprios usus" did not necessarily mean the appropriation of "both patronage and vicarage." Robert, Bishop

1. Chart. of Cambuskenneth, p.153.

2. Reg. de Aberbrothoc, I, p.167.

3. Cart. of Cambuskenneth, p.78.

of Glasgow says -

"Noverit universitas vestra nos pro nobis et successoribus nostris caritative dedisse et concessisse Decano et Capitulo Ecclesie nostre Glasguensis Rectoriam ecclesie de Walliston in proprios usus ad augmentum communie sue in perpetuum tenendam et habendam...."1

Again, in the same year -

".... Quam rectoriam volumus in proprios usus dictorum decani et capituli ad augmentacionem communie sue in perpetuum converti et deputari. Ita videlicet quod dicti decanus et capitulum nomine dicte rectorie viginti marcas annuas in certis decimis garbarum decimalium ecclesie de Walliston per nos secundum communem estimationem.... una cum tribus acris terre de terra ejusdem ecclesie.... libere percipiant et residui fructus dicte ecclesie majores et minores in usus vicarij in dicta ecclesia deservientis.... cedent et convertantur."2

What then is the significance of the phrase? It became, early in this period, the technical phrase signifying the conveyance of a church and its revenues to a monastery or cathedral, without reference to the extent of the grant made. Probably it is a phrase which originally had a specific meaning; and in course of time, its use, originally one which distinguished the purpose of the grant, became formal. The original significance of the expression is shown in many instances. For example, the Dean and Chapter of Dunkeld confirm the church of Stradardolf to Dunfermline, in these terms -

"Noverit universitas vestra nos.... prebuisse assensum et consensum confirmationi et concessioni quam dictus dominus G. episcopus noster fecit ecclesie Sancte Trinitatis de dunfermelyn et abbati et monachis ibidem deo servientibus... super ecclesia de Strahdardolf ad sustentacionem fratrum et hospitum et pauperum in usus proprios confirmata...."3

The "proprius usus" of the monastery were such things as are specified here, the upkeep of the brothers, and guests and the poor. Again, a charter of Roger, Bishop of St. Andrews, to the canons there, gives them the church of Portmoak,

"In proprios usus suos convertendam, et tantummodo in augmentum et servicium refectorii imperpetuum tenendam et habendam. Quare volumus.... ut nullus.... dictam ecclesiam ab usu et servicio refectorii in alienos usus transferre presumat...."4

In 1248, Albin, Bishop of Brechin, describes churches held by Arbroath

".... Ita ut predictarum ecclesiarum redditus et proventus universos in usus proprios ad eorum sustentacionem convertant in perpetuum...."5

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1. Reg. Episc. Glasg. I, p.203.
 2. Do. I, p.106.
 3. Reg. de Dunfermelyn, p.73.
 4. Reg. St. And. p.154.
 5. Reg. de Arbroath, I, p.175.

A similar 'use' was the repair of their buildings. The canons of Scone held the church of Carrington "in propriis usibus reparationi ecclesie vestre ac edificiorum vestrorum."¹ The notion that a gift to a monastery was put to distinctive uses, peculiar to the religious, is shown in William the Lion's gift to Arbroath, circa 1200, that the monastery's men may take from the king's forests, by their bailies, "quecunque eis necessaria fuerint ad edificia sua et ad usus proprios...."² This meaning of the phrase accounts for its use of other donations than churches. The uses of the religious, as distinctive, are contrasted with other objects of ecclesiastical revenues. Thus, the Bishop of Glasgow, in 1223, ordains, in a controversy with the canons of Giseburne -

"Quod omnes decime garbarum bladi ecclesiarum de Annant et de loumaban... cedant in usus proprios dictorum canonicorum.... Cetera vero omnia cedant in usus rectorum ipsarum ecclesiarum...."³

A charter of the Bishop of Galloway to Holyrood in 1237, confirms the supposition that the "proprii usus" of the monastery were those characteristic of its peculiar activities and needs.

"Ecclesia de Keleton pijs usibus imperpetuum integraliter est assignata videlicet fabrice ecclesie Sancte Crucis de Edinburg...."⁴

As late as 1356, when, according to Connell, the phrase had gained the definite meaning he assigns to it, the Bishop of St. Andrews made the grant to Scone (previously quoted) -

"Ecclesiam de Blar... cum omnibus suis fructibus obventionibus decimis maioribus et minoribus ac pertinenciis universis prefatis religiosi in proprios usus in prefati monasterii et suam utilitatem plenarie perpetuo convertendam...."⁵

The points will be observed that the greater and smaller tithes are specified as well as the nature of the grant (in proprios usus), which on Connell's showing would not be necessary; also the object of the grant is emphasized - "in prefati monasterii.... utilitatem."

Allowing for the inevitable tendency of such a phrase to harden into a formal expression, there would appear to be no absolute proof that it came to mean, within this period, the complete appropriation of a church. In practice, it often did so, because the extent of the grant made "in proprios usus" was of the fullest kind. But whether the grant was large or small, it could equally well be described, by a kind of legal fiction, as for the special uses of the religious, or for that matter, of a cathedral chapter.

1. Lib. de Scon, p.61.

2. Reg. de Aberbrothoc, I, p.15.

3. Reg. Episc. Glasg. I, p.105.

4. Lib. Cart. S.Crucis, p.72.

5. Lib. de Scon. p.131.

Chapter VII. The Contrast of the Attitudes of Bishops and Monks
towards the Parish Churches and Clergy. Summary.

The attitude of the religious towards the parish churches and their clergy is in definite contrast to that of the bishops.

It would be impossible to claim that in every instance, the bishops were the disinterested champions of the cause of the secular clergy against their exploitation by the monasteries. They did not seek to check the increase of appropriations, the service of parish churches by vicars or by chaplains, for these customs, however vitiating, were accepted as parts of a prevalent system. Like the religious, they regarded the parish churches from a financial standpoint, and had an interest in their revenues. But the marked difference between bishops and regulars is this - the monks regarded the churches simply as a source of income, to be served anyhow; whereas, the bishops insisted on their right to judge the suitability of the monasteries' presentees to livings, on the adequate maintenance of clergy so collated, on residence and the proper performance of the cure of souls. The bishops, indeed, sought in spite of appropriations, that the parish churches should fulfil their function as local units of the Secular Church, ministering to the laity. It is reasonable, moreover, to suppose that the most urgent arrangements for the service of appropriated churches are specified so frequently, because they were customarily wanting. Such stipulations as those for adequate portions and for residence, were not merely desiderated by individual bishops. They represent the aim of the Episcopate to put into action the Statutes of the Church, which themselves were framed to guard against and to remedy abuses in the secular organisation.

The case of the church of Kinclevin (1260) may indicate an episcopal preference for the service of churches by seculars. This church was in the divided ownership of the Precentor of Dunkeld and the Abbey of Cambuskenneth, "in consequence of which there was great danger to the souls of the people from the church not being well served." The church was made over to the precentor, who was ordained to pay six marks yearly to the monastery, and to serve the cure of Kinclevin by a chaplain.¹

Certain characteristic episcopal enactments for appropriated churches may be noticed. There is definite provision for the cure of souls. Thus, in 1285, Henry, Bishop of Aberdeen confirms to Arbroath all the rents and income of the vicarage of Fyvie. But he adds -

"Ne predicta ecclesia Sancti Petri de Fyvyn suis debitis et consuetis defraudetur obsequiis volumus et ordinamus quod ibidem sit unus capellanus perpetuus qui parochiam die nocteque cum neces o fuerit circumbeat ac parochianis sacramenta ecclesiastica ministret."²

This chaplain is to be reinforced by another, if necessary, and the religious will sustain all the ordinary and extraordinary burdens.

1. Cart. of Cambuskenneth, p.385.

2. Reg. de Aberbrothoc, I, p.167.

In 1226, it was arranged between the Bishop of Glasgow and the Monks of Kilwinning, that suitable chaplains, at a canonical and sufficient stipend, should be presented to the bishop for the monastery's churches. If the chaplains suffered loss from an indeterminate and uncertain stipend, and if the monks, warned by the bishop, do not remedy the loss, the bishop will supply the defect from the churches in question. Also, if the presentees to these vicarages are found unsuitable in the course of time or do not reside, they may lawfully be removed by the bishop.¹ A later bishop of the same diocese insists in 1363, that the vicar appointed by Melrose to the church of Cavers, when it falls to them "in proprios usus", will reside in person at that church.²

The foregoing instance of Kilwinning shows the bishop insisting on the responsibility of the monastery for the remuneration of its employed clergy. There are various cases of episcopal provisions for the relief of vicars from bearing the burden of episcopal dues in respect of the churches they serve. David de Bernham, giving the church of Kirkcaldy to Dunfermline in 1240, enacts that the perpetual vicars will sustain the church's burdens, except the entertainment of the bishop, for which the abbot and convent will be responsible; and if an extraordinary 'aid' is imposed on the church, for instance by the Pope or his legate or the bishop, the monastery will be similarly responsible.³ Other instances are found in which the burden of dues is laid upon the religious. In 1318, the Bishop of St. Andrews confirmed the enactment of his predecessors that the Abbot and Convent of Dryburgh will bear all the ordinary and extraordinary burdens of their churches of Kilrenny, Gullane, Saltoun and Channellkirk.⁴ In the same year, the monks of Paisley were obliged to pay the episcopal procurations of their church of Largs and to supply wax for the lighting of the church, while the vicar paid the archidiaconal procurations, synodals and all other ordinary dues.⁵ The Bishop of Galloway (1347) made a similar enactment in regard to the church of Bothwell, held by the Abbey of Sweetheart:- the monks are to bear the extraordinary and the vicar the ordinary burdens of the church.⁶

The portion assigned by the bishop to the incumbent of this church illustrates the careful provisions made by episcopal design for the support of the vicar. The abbot will receive the tithe of the sheaves except of what grows in the curtilages, half the land, meadow and common pasture of the church, the half of the malt and the ferme of the same: the vicar will have all the altar dues and the other half. At an earlier period (1202-1238), William de Malvoisin gave the vicar of Haddington the oblations of the whole parish, all the tithe of trade and merchandise, and of gardens within the burgh, half the tithes of hay and the vicarage house, the remainder to go to the Priory of St. Andrews.⁷

1. Reg. Episc. Glasg. p.118.

3. Reg. de Dunfermelyn, p.70.

5. Reg. de Passelet, p.240.

7. Reg. St. And. p.158.

2. Lib. de Melros, p.435.

4. Lib. de Dryburgh, p.244.

6. Vatican Transcripts, I, pp.20-22.

The intentions of the bishops, as shown in the above cases, were benevolent towards the clergy of the appropriated churches. So far they sought to secure for the vicars a just share of the parish revenues, and the means of fulfilling the obligation of residence,¹ and to assert the principle that the monastery should share, in whole or in part, in the payment of dues. The extent to which the monasteries subscribed this latter principle is seen in the dealings of Dunfermline with its vicars. That house, between 1202 and 1238, secured, as the result of controversy with the vicar of Musselburgh, that he (the vicar) should sustain all the episcopalia and serve the church sufficiently and honestly.² More significantly, in 1240, the same house had a contention with the vicar of Inverkeithing over the payment of money promised to the papal legate, from all the parish churches of Scotland, the vicar asserting that the monks were liable for the portion of the parochial revenues they received. It was settled in chapter, that clerks in the presentation of Philip de Mubray, instituted in that church, were liable for episcopalia and all other dues. The monks were declared immune and the vicar held liable for the payment.³

This, then, was the characteristic attitude of the religious towards the vicars, in spite of any episcopal or conciliar provision for the betterment of the vicar's lot: and the exploitation of the parish churches and clergy could go on largely unchecked, for the monks had become a controlling influence in the destinies both of church and clergy. The lowering of episcopal authority in the parishes, in consequence of appropriations, is seen in the bishops' enactments that vicars are to observe in their parish churches, sentences of excommunication or interdict passed by the diocesan.⁴ But the bond that subsisted between vicars and the monks was stronger than that between vicars and their bishops. For the vicars might be collated and supervised by the bishops, and be the subject of benevolent episcopal enactments, but they were paid by the regulars. As members of a class of clergy, humiliated in pocket and in status to supply monastic revenues, dependent for appointment and subsistence on the religious, they were almost without redress,

1. Dryburgh and Jedburgh are reminded of the obligation to give the vicars houses. "Dicti vero abbas et conventus.... vicariis domicilia assignabunt." (Lib. de Dryburgh, p.244). "Ut canonici (de Jeddworte) honestas faciant casellas ad singulas ecclesias suas... nisi vicarie valeant decem marcas vel excedant et tunc eas faciant vicarij.." (Reg. Episc. Glasg. p.97.)

2. Reg. de Dunfermelyn, p.69.

3. Reg. de Dunfermelyn, p.137.

4. E.g. Lib. de Calchou, p.324; Reg. Episc. Glasg, p.118.

so long as the Crown, the Papacy, and the Episcopate accepted the system of appropriated churches. At most, the bishops could seek to mitigate their lot. The general result of the incursion of monastic influence into the sphere of the Secular Church was that an uncontrollable organisation used the Secular Church for its own ends, regardless of the function for which that church existed. Mass-Offerings rather than mass were the concern of the religious in the parish churches; and the resultant situation cannot be described more adequately than in the words of Alexander, Bishop of Moray, who, in 1371, described their effect on the secular church to Gregory XI.

"Beatissime pater et domine non solum ex perspicuis indiciis verum etiam ex ipsius experientia rei evidenter constat et colligi potest quod monachi mundo mortui voto frequentiori hodie mundo magis inserviunt et abjecto tam obedientie quam pauperitatis proposito nimis affluentes divitiis in suos superiores protervius satagunt ^{saltibus} lascivire ecclesiis ipsorum monachorum maneriis locis necessariis et edificiis dirutis destructis et desolatis ipsis etiam ecclesiis ornamentis necessariis ac officiis divinis et sacramentis vacuis ac quasi penitus destitutis vicariis conquerentibus murrurantibus parochianis non sine scandalo gravi et clamore valido ac animarum periculis alisque multis gravibus et enormibus cotidie patentibus que breviter calamo nequeunt explicari...."¹

1. Reg. Episc. Morav. p.175.

Chapter VIII.

How did Monasticism affect the Secular Church in Scotland? Once the original distinction between the spheres of regulars and seculars was broken down, its influence within the secular church was anarchical. Taking for granted the Scottish Church of the Middle Ages, as an organisation of which the spiritual function was imperfectly distinguished from its financial counterpart, it may be asserted that the monks worked within it infinite harm, breaking in upon its organisation as a system of graded responsibility, defying or circumventing its authorities, seeking its revenues without any return or corresponding service. To the religious, it existed to be used for the promotion of their interests, and the supply of their revenues. One thing made this possible - the support of the Papacy, which found the Monastic Movement a means of keeping the Secular Church in subjection. As Monasticism arose in the Church of the West as a movement of great spiritual promise, frustrated in the end by its entanglement with matters of papal policy and by its development into a system of capitalist societies with a place in the Feudal System, no part of its career shows forth more clearly the mercenary spirit which brought about its fall in Scotland and elsewhere, than its relations with the secular clergy, whose function it frequently nullified, whose very livelihood was taken for its enrichment.
